

Supplementary Note (2) to
Annex 2 to Paper No. CSA15/01
dated 6 December 2001

SCHEDULE 9

[ss. 230, 232, 234,
392, 393, 394 & 395]

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PART 2

CONSEQUENTIAL AND SUPPLEMENTAL AMENDMENTS

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Item	Enactment	Amendment
3. ¹	Companies Ordinance (Cap. 32)	(a) In section 2(1) - (i) in the definition of "Commission" - (A) in paragraph (a), repeal "established by section 3 of the Securities and Futures Commission Ordinance (Cap. 24)" and substitute "referred to in section 3(1) of the Securities and Futures Ordinance (of 2002)"; (B) repeal paragraph (b) and substitute - "(b) where any relevant transfer

¹ The amendments to sections 2(1), 38D(2)(a), 40(1A), 40A(3) and 342F(3) of the Companies Ordinance (Cap. 32) seek to rectify the inadvertent omission of references to "recognized exchange controller" in addition to those to "recognized exchange company". Similar to section 47(1) of the SFC Ordinance (Cap. 24), the SFC may transfer some of its functions to a recognized exchange controller through a transfer order made under clause 68, or to a recognized exchange company through a transfer order made under clause 25, of the SF Bill.

~~order made under
section 25 of that
Ordinance is in
force, the
recognized exchange
company concerned
or both the
Securities and
Futures Commission
and the recognized
exchange company
concerned, in
accordance with the
provisions of that
order;"~~;

(i) repeal the definition of
"Commission" and
substitute -

"Commission" (監察委
員會) means-

(a) subject to
paragraphs (b)
and (c), the
Securities and
Futures
Commission
referred to in
section 3(1)
of the
Securities and
Futures
Ordinance
(____ of 2002);

(b) where any
relevant
transfer order
made under
section 25 of
that Ordinance
is in force,

the recognized
exchange
company
concerned or
both the
Securities and
Futures
Commission and
the recognized
exchange
company
concerned, in
accordance
with the
provisions of
that order; or
(c) where any
relevant
transfer order
made under
section 68 of
that Ordinance
is in force,
the recognized
exchange
controller
concerned or
both the
Securities and
Futures
Commission and
the recognized
exchange
controller
concerned, in
accordance
with the
provisions of
that order;"

* * * * *

(vi) add -
"recognized
exchange
controller" (認
可控制人) has
the same
meaning as in
section 1 of
Part 1 of
Schedule 1 to
the Securities
and Futures
Ordinance
(of
2002);".

* * * * *

~~(d) In section 38D(2)(a), repeal everything after "issue by" and substitute "a recognized exchange company pursuant to a transfer order made under section 25 of the Securities and Futures Ordinance (of 2002), state that neither the Commission nor the recognized exchange company nor the Registrar takes any responsibility as to the contents of the prospectus;".~~

(d) Repeal section 38D(2)(a) and
substitute -
"(a) on the face of it, state that
a copy has been registered as
required by this section and
immediately after such
statement -

- (i) state that neither the Commission nor the Registrar takes any responsibility as to the contents of the prospectus;
- (ii) where the prospectus is or is to be authorized for issue by a recognized exchange company pursuant to a transfer order made under section 25 of the Securities and Futures Ordinance (of 2002), state that neither the Commission nor the recognized exchange company nor the Registrar takes any responsibility as to the contents of the prospectus; or
- (iii) where the prospectus is or is to be authorized for issue by a recognized exchange controller pursuant to a transfer order made under section 68 of that Ordinance, state that neither the Commission nor the recognized exchange controller nor the Registrar takes any responsibility as to the contents of the prospectus;".

~~(e) In section 40(1A), repeal everything after "authorized by" and substitute "a recognized exchange company pursuant to a transfer order made under section 25 of the Securities and Futures Ordinance (of 2002), shall not apply to the Commission nor the recognized exchange company."~~

(e) Repeal section 40(1A) and substitute -

"(1A) Subsection (1)(d) shall not apply -

(a) to the Commission;

(b) where the relevant

prospectus is authorized by a recognized exchange company pursuant to a transfer order made under section 25 of the Securities and Futures Ordinance (of 2002), to the Commission or the recognized exchange company; or

(c) where the relevant

prospectus is authorized by a recognized exchange controller pursuant to a transfer order made under section 68 of that Ordinance, to the Commission or the recognized exchange controller."

~~(f) In section 40A(3), repeal everything after "authorized by" and substitute "a recognized~~

~~exchange company pursuant to a transfer order made under section 25 of the Securities and Futures Ordinance (of 2002), shall not apply to the Commission nor the recognized exchange company."~~

(f) Repeal section 40A(3) and substitute -

"(3) Subsection (1) shall not apply -

(a) to the Commission;

(b) where the relevant

prospectus is authorized by a recognized exchange company pursuant to a transfer order made under section 25 of the Securities and Futures Ordinance (of 2002), to the Commission or the recognized exchange company; or

(c) where the relevant

prospectus is authorized by a recognized exchange controller pursuant to a transfer order made under section 68 of that Ordinance, to the Commission or the recognized exchange controller."

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~~(u) In section 342F(3), repeal everything after "authorized by" and substitute "a recognized exchange company pursuant to a~~

~~transfer order made under section 25 of the Securities and Futures Ordinance (of 2002), shall not apply to the Commission nor the recognized exchange company."~~

(u) Repeal section 342F(3) and substitute -

"(3) Subsection (1) shall not apply

=

(a) to the Commission;

(b) where the relevant

prospectus is authorized by a recognized exchange company pursuant to a transfer order made under section 25 of the Securities and Futures Ordinance (of 2002), to the Commission or the recognized exchange company; or

(c) where the relevant

prospectus is authorized by a recognized exchange controller pursuant to a transfer order made under section 68 of that Ordinance, to the Commission or the recognized exchange controller."

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