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BY HAND

Hon Henry K C Wu, BBS
Legislative Council Member
Room 420 West Wing
Central Government Offices
Hong Kong

**Securities and Futures Bill
Banking Amendment Bill 2000**

Thank you for your letter of 24 January 2002.

As we have explained to the Bills Committee, the amendment from “employed by” to “engaged by” in the Securities and Futures Bill (“SF Bill”) and the Banking Amendment Bill 2000 (“BAB”) is intended to take into account the situation that some individuals representing licensed corporations and registered institutions in conducting regulated activities may not have employment relationship with the intermediaries concerned. The status as licensed representatives or as persons in the register only entitles the individuals to perform agency service for the relevant licensed corporations or registered institutions, as the case may be, to which they are attached. The design applies to both cases equally.

This amendment should not raise any cause of concern. There are a number of provisions under the SF Bill and the BAB designed for ensuring that persons in the register as engaged by registered institutions are fit and proper in terms of the same set of benchmarks applicable to licensed representatives. Moreover, they are also subject direct to a wide range of

regulatory requirements, disciplinary sanctions and criminal sanctions applicable to licenced representatives. Relevant provisions are shortlisted at the **Annex** for your ease of reference.

Yours sincerely,

(Miss Au King-chi)
Acting Secretary for Financial Services

Encl.

c.c. Mr David Carse, Hong Kong Monetary Authority
Mrs Alexa Lam, Securites and Futures Commission
Clerk to the Bills Committee

Securities and Futures Bill

Clause 118(8)

- impose a statutory condition on a registered institution that any individual whose name is in the register as engaged by it must be fit and proper

Clause 163¹

- require compliance by any individual whose name is in the register with the Business Conduct Rules, failing which may attract criminal sanction

Clause 164¹

- expect compliance by any individual whose name is in the register with the Business Conduct Codes, failing which may be taken into account in considering whether he is a fit and proper person

Clause 169¹

- impose a general prohibition over unsolicited calls by any individual whose name is in the register, non compliance with which may attract criminal sanction

Clause 169A¹

- require compliance by any individual whose name is in the register with prescribed requirements in making an offer relating to securities, failing which may attract criminal sanction

Banking Amendment Bill (2000)

Clause 189A²/Clause 5

- apply the whole range of disciplinary sanctions over any individual whose name is in the register, namely reprimand, civil fine, suspension/removal from register and prohibition order

¹ Definition of “representative” in clause 162 that covers an individual whose name is in the register maintained by the HKMA, is relevant.

² Please note definition of “regulated person” in clause 189A(8) that covers an individual whose name is in the register maintained by the HKMA.