

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

Clauses 187, 188, 189A & 190 of Securities and Futures Bill

At the meeting of the Bills Committee on 14 September 2001, the Chairman instructed this Division to ascertain whether there is any differences between the disciplinary provisions governing the licensed persons (i.e. clauses 187 and 188) and those governing the exempt persons (i.e. clauses 189A and 190).

Our observations are set out in the attached schedule for Members' consideration. Members may wish to note that the responsible officers appointed by the licensed corporations are subject to the approval and therefore disciplinary powers of the Security and Futures Commission (SFC). Their counterparts with the exempt persons, i.e. the executive officers, do not appear to be covered by clauses 189A & 190. However, the appointments of the executive officers are subject to the consent of the Monetary Authority (MA) under the proposed section 71C of the Banking Ordinance (clause 9 of the Banking (Amendment) Bill 2000). They are subject to the disciplinary powers of the MA stipulated in that proposed section. Although the proposed section 71C does not have any provisions corresponding in express terms to clause 188(7), its subsection (4)(b) appears to achieve the same effect as clause 188(7).

Prepared by

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## Schedule

### Comparison of clauses 187 & 188 with 189A & 190 respectively of the Securities and Futures Bill

Clause 187	Clause 189A	Remarks
(1)(a)	(1)(a)	
(1)(b)	(1)(b)	
(1)(i)	(1)(i)	
(1)(ii)	Nil	Revocation or suspension of approval of responsible officer, of which the equivalent regarding exempted persons is executive officer.
(1)(iii)	(1)(ii)	
(1)(iv)	(i)(iii)	
(2)	(2)	
(3)	(3)	
(4)	(4)	
(5)	(5)	
(6)	(6)	
Nil	(7)	The Commission may make recommendations to the Monetary Authority.
(9)	(8)	"Regulated person" is differently defined.

Clause 188	Clause 191	Remarks
(1)(a)	Nil	Clause 189(1)(a) covers licensed persons who are individuals which category has no equivalent regarding exempt persons.
(1)(b)(i) to (v)	(1)(d)(i) to (v)	
(1)(b)(vi) & (vii)	Nil	The mental incapacity & criminal conviction of any director of a licensed person as grounds for revocation or suspension.
(1)(c)	(1)(e)	
(1)(d)	(1)(f)	
(2)	Nil	Provision applies specifically to persons licensed in relation to Type 7 regulated activity.
(3)(a)	Nil	The provision refers to revocation of licence of individuals which category has no equivalent regarding exempt persons.
Nil	(3)(a)	The provision states cessation of being an authorized financial institution as a ground of revocation.
(3)(b)	(3)(b)	
(4)(a)	(5)	

(4)(b)	Nil	Failure to submit annual return as a ground of suspension does not apply to exempt persons as they are not required to submit such return.
(5)(a)	(6)	
(5)(b)	Nil	The provision deals with suspension for failure to submit annual return.
(6)	(7)	
(7)	Nil	Revocation or suspension of approval of responsible officer on ground of criminal conviction.

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### Comparison of clauses 187 & 188 with 189A & 190 respectively of the Securities and Futures Bill

Clause 187	Clause 189A	Remarks
(1)(a)	(1)(a)	
(1)(b)	(1)(b)	
(1)(i)	(1)(i)	
(1)(ii)	Nil	Revocation or suspension of approval of responsible officer, of which the equivalent regarding exempted persons is executive officer.
(1)(iii)	(1)(ii)	
(1)(iv)	(i)(iii)	
(2)	(2)	
(3)	(3)	
(4)	(4)	
(5)	(5)	
(6)	(6)	
Nil	(7)	The Commission may make recommendations to the Monetary Authority.
(9)	(8)	"Regulated person" is differently defined.

Clause 188	Clause 191	Remarks
(1)(a)	Nil	Clause 189(1)(a) covers licensed persons who are individuals which category has no equivalent regarding exempt persons.
(1)(b)(i) to (v)	(1)(d)(i) to (v)	
(1)(b)(vi) & (vii)	Nil	The mental incapacity & criminal conviction of any director of a licensed person as grounds for revocation or suspension.
(1)(c)	(1)(e)	
(1)(d)	(1)(f)	
(2)	Nil	Provision applies specifically to persons licensed in relation to Type 7 regulated activity.
(3)(a)	Nil	The provision refers to revocation of licence of individuals which category has no equivalent regarding exempt persons.
Nil	(3)(a)	The provision states cessation of being an authorized financial institution as a ground of revocation.
(3)(b)	(3)(b)	
(4)(a)	(5)	

(4)(b)	Nil	Failure to submit annual return as a ground of suspension does not apply to exempt persons as they are not required to submit such return.
(5)(a)	(6)	
(5)(b)	Nil	The provision deals with suspension for failure to submit annual return.
(6)	(7)	
(7)	Nil	Revocation or suspension of approval of responsible officer on ground of criminal conviction.