

Supplementary Note to
the Annex to Paper No. CSA16/01
dated 28 November 2001

SCHEDULE 1 [ss. 2, 19, 66,
160, 166, 169, 169A, 194
& 392 & Sch.9]

INTERPRETATION AND GENERAL PROVISIONS

PART 1

INTERPRETATION

1. Interpretation of this Ordinance

In this Ordinance, unless otherwise defined or excluded or
the context otherwise requires -

"accredited" (隸屬) means accredited to a licensed corporation with
the Commission's approval¹ under section 121 of this
Ordinance;

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²"dealing" (交易) -

¹ We propose this further minor technical amendment for greater clarity.

² In the light of the comment of the Legal Service Division of the Legislative Council, we have reviewed the application of the definitions of "dealing in futures contracts" and "dealing in securities" and propose this further amendment to Paper CSA16/01. This additional amendment is of technical nature and seeks to rectify the inadvertent extension of the exclusions in the definitions in Schedule 6, which are tailored for the purposes of licensing regulated activities, to the general definition.

(a) in relation to securities, means, whether as principal or agent, making or offering to make an agreement with another person, or inducing or attempting to induce another person, to enter into or to offer to enter into an agreement -

(i) for or with a view to acquiring, disposing of, subscribing for or underwriting securities; or

(ii) the purpose or pretended purpose of which is to secure a profit to any of the parties from the yield of securities or by reference to fluctuations in the value of securities; or

(b) in relation to futures contracts, means, whether as principal or agent -

(i) making or offering to make an agreement with another person to enter into, or to acquire or dispose of, a futures contract;

(ii) inducing or attempting to induce another person to enter into, or to offer to enter into, a futures contract; or

(iii) inducing or attempting to induce another person to acquire or dispose of a futures contract;

~~"dealing in futures contracts" (期貨合約交易) has the meaning assigned to it by Part 2 of Schedule 6 to this Ordinance;~~

~~"dealing in securities" (證券交易) has the meaning assigned to it by Part 2 of Schedule 6 to this Ordinance;~~

* * * * *

"relevant provisions" (有關條文) means the provisions of -

- (a) this Ordinance;
- (b) Parts II and XII of the Companies Ordinance (Cap. 32), so far as those Parts relate, directly or indirectly, to the performance of functions relating to -
 - (i) prospectuses;
 - (ii) the purchase by a corporation of its own shares;
 - (iii) a corporation giving financial assistance for the acquisition of its own shares,

whether or not such functions have been made the
subject of a transfer order under section 25 or 68³
of this Ordinance;

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Financial Services Bureau
Securities and Futures Commission
7 January 2002

³ Clauses 25 and 68 are basically mirror provisions relating to the transfer of the functions under the same range of provisions, but the former from the SFC to a recognized exchange company and the latter from the SFC to a recognized exchange controller. We propose this further minor technical amendment to rectify the omitted reference to clause 68.