

**For discussion  
on 18 September 2002**

**Paper No. 27/02**

**Subcommittee on Draft Subsidiary Legislation to be made under  
the Securities and Futures Ordinance**

**Securities and Futures (Fees) Rules**

This paper sets out the proposals to require and provide for the payment of fees to the Securities and Futures Commission (SFC) and to prescribe fees for various matters relating thereto under the Securities and Futures Ordinance (Cap. 571) (SFO).

**Proposal**

2. The SFC proposes to recommend to the Chief Executive in Council to make the Securities and Futures (Fees) Rules (the draft Rules), now in draft at **Annex 1**, under section 395 of the SFO.

**Power to make the Rules**

3. Section 395(1) of the SFO empowers the Chief Executive in Council to make rules to prescribe fees, and require and provide for payment of fees to the SFC, in respect of the following –

- (a) an application to the SFC under or pursuant to any of the relevant provisions<sup>1</sup>;
- (b) anything done by the SFC or a committee set up under section 8 in the performance of a function relating to takeovers and mergers or to share repurchases;

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<sup>1</sup> “Relevant provisions” is defined in Schedule 1 to the SFO to mean–

- (a) the SFO; and
- (b) Parts II and XII of the Companies Ordinance (Cap. 32) so far as those Parts relate to the performance of functions relating to prospectuses, share repurchases and a corporation giving financial assistance for share repurchases.

- (c) anything done by the SFC or a committee set up under section 8 or the Hong Kong Monetary Authority in the performance of a function under any of the relevant provisions (other than the function referred to in (b) above); and
- (d) any other matter with regard to which provision is made by or under any of the relevant provisions.

4. The Department of Justice has advised that the draft Rules would be *intra vires* if made as drafted.

### **Major features of the draft Rules**

5. The draft Rules are adapted from the existing Securities and Futures Commission (Fees) Rules (Cap. 24 Sub. Leg. C). Part 2 of the draft Rules sets out the requirements for paying the fees set out in Schedule 1, including fees in respect of the authorization of automated trading services, collective investment schemes, applications for waivers or modification of various requirements under the SFO, and authorisation of prospectuses under the Companies Ordinance (Cap. 32), etc.

6. Part 3 of the draft Rules and Schedule 2 provide for the requirements for payment of fees for functions performed by the SFC, the Takeovers Panel and the Takeovers Appeal Committee in relation to takeovers and mergers or share repurchases under the Codes on Takeovers and Mergers and Share Repurchases.

7. Part 4 of the draft Rules and Schedule 3 provide for fees for matters which the SFO provides are, or may be, prescribed by rules. They include application fees and annual fees in respect of licensing and registration of intermediaries, etc.

8. Part 5 of the draft Rules provides for miscellaneous provisions such as those regarding SFC's powers to waive or refund fees in whole or in part. Schedules 4 and 5 provide for waiver provisions applicable in respect of licensing fees during the 2-year transitional period after the commencement of the SFO.

## **Comparison with existing fees**

### ***Licensing fees***

9. In view of the difficult economic situations in which intermediaries are operating, the SFC has proposed that all existing licensing fees (for licensed corporations and licensed representatives) be reduced by 3%. These existing fees have not been adjusted since 1994 and recover only 68% of the regulatory costs incurred by the SFC.

10. To encourage existing licensees and exempt persons to migrate to the new licensing regime early, the SFC also proposed to make available an additional 5% discount (based on the existing fee scale) to existing licensees or exempt persons who apply to migrate to the new licensing regime during the first year of the transitional period. The discount will be available from the date of the submission of the application for migration till the end of the 2-year transitional period. Waiver provisions are also included in Schedules 4 and 5 which seek to ensure that existing regulatees of the SFC will not incur extra licensing fees over and above which he is paying under the existing licensing regime.

### ***Other fees***

11. Levels of fees other than licensing fees are set based on the existing fees. No new policy is introduced regarding payment of these fees but certain amendments are made in order to streamline the fee structure for collective investment schemes. A number of new fees are introduced to accommodate new elements of the licensing regime (e.g. application for authorization of automated trading services, or certificate of registration for banks). The levels of new fees are set having regard to similar activities under the existing regulatory regime.

## **Public consultation**

12. Two public consultation exercises have been carried out in respect of the draft Rules. The SFC released a consultation document on the structure and levels of the proposed licensing fees on 8 March 2002 for public comment. Three submissions were received on the proposed licensing fees. Taking into account comments received, the SFC released a second consultation document and an exposure draft of the Rules (included in Annex 4) on 30 July 2002 for comment by the public, covering all other fees in addition to the licensing fees. Two submissions were received during the second consultation.

13. Respondents to the consultation on the licensing fees are generally supportive of the SFC's proposal to reduce licensing fees and the proposed transitional arrangements. Most submissions sought clarifications on the policy only. The SFC considers that no material amendments to the draft Rules are necessary.
14. The following documents are attached for Members' reference -
- (a) Consultation Document on Proposed Licensing Fees, at **Annex 2**, which sets out the underlying policy and the proposed new licensing fees;
  - (b) Consultation Conclusions on Proposed Licensing Fees, at **Annex 3**, which sets out the SFC's conclusions from the consultation on the proposed licensing fees, together with a summary of comments and the SFC's response thereto in the form of a table;
  - (c) Consultation Document on the draft Rules at **Annex 4**, together with the exposure draft of the Rules and a table comparing the proposed fees against the existing fees. The draft Rules as revised are at Annex 1 for Members' consideration; and
  - (d) Consultation Conclusions on the draft Rules at **Annex 5**, which sets out the SFC's conclusions from the consultation, together with a summary of comments and the SFC's response thereto in the form of a table.

### **Drafting presentation**

15. On closer scrutiny of the exposure draft of the Rules, the Law Draftsman decided to improve the presentation of the draft Rules to enhance the certainty of their legal effect as intended in the SFO. The items in Schedule 1 in the exposure draft of the Rules (see Annex 4) are regrouped into Schedules 1 and 3 in the present draft, depending on the enabling provisions of the SFO under which the fees are prescribed. Schedule 1, which prescribes fees for the purposes of section 395(1)(a)(i), (iii) and (iv) of the SFO, imposes requirements to pay fees which are not otherwise required in the SFO. Schedule 3, which prescribes fees for the purposes of section 395(1)(b) of the SFO, seeks to prescribe the amounts of fees which are already required to be paid under the SFO. This new presentation is legally required and is in line with the enabling provisions in section 395(1) of the SFO. We recognise the importance of legal certainty to be enhanced by the new presentation as pointed out to us by the

Law Draftsman. The new presentation of the draft Rules will not change the financial implication of the fees proposals to the regulatees compared with the July 2002 exposure draft.<sup>2</sup>

### **Way forward**

16. Subject to Members' views, we shall submit the draft Rules to the Chief Executive in Council for approval. If approved, they will be published in the Gazette for tabling before the Legislative Council in the normal manner. The intention is that the Rules shall come into operation on the commencement of the SFO.

Securities and Futures Commission  
Financial Services and the Treasury Bureau  
10 September 2002

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<sup>2</sup> In an attempt to polish further the presentation of the draft Rules, we are working closely with the Law Draftsman to refine certain drafting details. The refinement, if any, will not have any material effect on the fees proposals or financial impact on the regulatees. We shall keep the Legal Adviser to the Subcommittee informed of such refinements.

# DRAFT

Annex 1

[ Cf : sections 8, 395, 399(2) of and sections 22 to 33 in Part 1 of Schedule 10 to the Securities and Futures Ordinance ]

## SECURITIES AND FUTURES (FEES) RULES

(Made by the Chief Executive in Council under section 395 of the Securities and Futures Ordinance (Cap. 571) after consultation with the Securities and Futures Commission)

### PART 1

#### PRELIMINARY

#### 1. Commencement

These Rules shall come into operation on the day on which Part XVI of the Securities and Futures Ordinance (Cap. 571) comes into operation.

### PART 2

FEES PRESCRIBED FOR THE PURPOSES OF SECTION 395(1)(a)(i), (iii) AND (iv) OF THE ORDINANCE

#### 2. Annual fees, applications fees, etc.

A fee set out in column 2 of Schedule 1, which is prescribed opposite the fee in column 3 of that Schedule, shall be payable to the Commission.

#### 3. Time for payment of fees

(1) The annual fee prescribed in item 1 of Schedule 1 shall be payable on or before each anniversary of the date on which authorization of the provision of automated trading services

concerned under section 95(2) of the Ordinance is granted.

(2) The annual fee prescribed in item 4 of Schedule 1 shall be payable -

(a) where it is first payable in respect of authorization of a collective investment scheme under section 104 of the Ordinance, on or before the date on which the authorization takes effect; and

(b) where it is subsequently so payable, on or before each successive anniversary of the date on which the authorization takes effect.

(3) Any fee, other than an annual fee referred to in subsection (1) or (2), prescribed in Schedule 1 shall be payable at the time when the application or request to which the fee relates is made.

### PART 3

#### FEES PRESCRIBED FOR THE PURPOSES OF SECTION 395(1)(a)(ii) OF THE ORDINANCE

#### **4. Interpretation of Part 3**

In this Part, unless the context otherwise requires -

"Codes" ( ) means the codes entitled "The Codes on Takeovers and Mergers and Share Repurchases" and published by the Commission under section 399(2)(a) and (b) of the Ordinance;

"Executive" ( ) means the Executive Director of the Corporate Finance Division of the Commission or any delegate

of the Executive Director;

"Introduction to the Codes" ( ) means the part of the Codes entitled "Introduction";

"off-market share repurchase circular" ( ) means a document required to be submitted to the Executive under the Share Repurchase Code in connection with an off-market share repurchase;

"offer" ( ) has the meaning assigned to it by the Codes;

"offer document" ( ) means a document required to be submitted to the Executive under the Codes in connection with an offer;

"offeree company" ( ) means a corporation for which an offer is made in accordance with the Codes;

"off-market share repurchase" ( ) has the meaning assigned to it by the Codes;

"relevant share capital" ( ), in relation to a corporation, means shares of any class comprised in the equity share capital of the corporation and securities of the corporation which carry a right to subscribe for or purchase such shares;

"ruling" ( ) includes any ruling, waiver, consent, decision, confirmation or other determination in writing, made under the Codes by the Executive, the Takeovers Panel or the Takeovers Appeal Committee;

"Share Repurchase Code" ( ) means the parts of the Codes respectively entitled "Introduction", "Definitions",



"General Principles", "Code on Share Repurchases" and "Schedules";

"Takeovers Appeal Committee" ( ) means the committee established under section 8 of the Ordinance and known as the Takeovers Appeal Committee;

"Takeovers Code" ( ) means the parts of the Codes respectively entitled "Introduction", "Definitions", "General Principles", "Code on Takeovers and Mergers" and "Schedules";

"Takeovers Panel" ( ) means the committee established under section 8 of the Ordinance and known as the Takeovers and Mergers Panel;

"whitewash document" ( ) means a document required to be submitted to the Executive under the Whitewash Guidance Note in Schedule VI to the Codes.

**5. Fees relating to offer documents, off-market share repurchase circulars and whitewash documents**

(1) Where a first draft of an offer document, off-market share repurchase circular or whitewash document is submitted to the Executive for comment, a fee which is prescribed, opposite the applicable value set out in column 1 of Schedule 2, in column 2 of that Schedule shall be payable to the Commission.

(2) For the purposes of subsection (1), the applicable value shall be equivalent -

(a) in the case of an offer document -

(i) subject to subparagraphs (ii) and (iii),

to the value of the offer contained in the offer document;

(ii) where the offer document contains alternative offers to the same offeree company, or contains 2 or more offers of different values to different offeree companies, to the value of the offer contained in the offer document which has the lower or lowest value; and

(iii) where the offer contained in the offer document may result in 2 or more variable values, to the lower or lowest value;

(b) in the case of an off-market share repurchase circular, to the value of the off-market share repurchase contained in the off-market share repurchase circular; or

(c) in the case of a whitewash document -

(i) subject to subparagraph (ii), to the value of the offer that would have been required to be made under Rule 26 of the Takeovers Code in the absence of a waiver under Note 1 on dispensations from Rule 26 of the Takeovers Code; or

(ii) where the offer referred to in subparagraph (i) may result in 2 or more variable values, to the lower or lowest

value.

(3) Where an offer contained in a draft offer document previously submitted to the Executive for comment is replaced by a revised offer, and a revised offer document is submitted to the Executive in connection with the revised offer, there shall be payable to the Commission a fee the amount of which shall be the difference between -

- (a) the fee previously paid under subsection (1) on the submission of the draft offer document; and
- (b) the fee that would have been payable under subsection (1) had the revised offer been contained in such draft offer document.

(4) For the purposes of this section, the value of an offer contained in an offer document, the value of an off-market share repurchase contained in an off-market share repurchase circular, or the value of an offer that would have been required to be made in the case of a whitewash document -

- (a) shall be its value relating to the relevant share capital of -
  - (i) in the case of an offer under the Codes, the offeree company; or
  - (ii) in the case of an off-market share repurchase, the company issuing the off-market share repurchase circular; or
- (b) where an offer made in accordance with the Codes contains an offer to acquire shares in the offeree

company in exchange for securities, shall be calculated by reference to the value of the securities on the date on which a firm intention to make the offer in accordance with the Codes is announced.

(5) The payment of a fee payable under this section shall be accompanied by a statement showing the value of the offer or off-market share repurchase concerned and the manner in which the fee is determined having regard to subsection (4).

(6) Where a first draft of an offer document, a first draft of an off-market share repurchase circular and a first draft of a whitewash document, or any combination of them, are combined in a draft when submitted to the Executive for comment -

(a) the fee payable under subsection (1) shall be the aggregate of the respective fees payable under that subsection in respect of each such first draft as if each such first draft had not been so combined in the draft, and the provisions of this section shall apply accordingly; and

(b) without prejudice to paragraph (a), subsection (3) shall apply as if -

(i) the reference to a draft offer document in subsection (3) included a reference to the draft in which each such first draft is so combined; and

(ii) the reference to a revised offer document

included a reference to that draft as revised to include the revised offer.

**6. Fees for applications to Takeovers Panel or Takeovers Appeal Committee**

Where, pursuant to the Takeovers Code or the Share Repurchase Code, a person other than the Executive applies to the Takeovers Panel for a review of any ruling of the Executive, or applies to the Takeovers Appeal Committee for a review of the appropriateness of any sanction imposed by the Takeovers Panel pursuant to the Codes -

- (a) a fee of \$50,000 shall be payable by the person to the Commission; and
- (b) an additional fee of \$20,000 shall be payable by the person to the Commission within 30 days after the delivery by the Takeovers Panel or the Takeovers Appeal Committee (as the case may be) of its ruling, in respect of each day or part of a day in excess of the first 2 days on which the Takeovers Panel or the Takeovers Appeal Committee (as the case may be) meets for the purposes of the review.

**7. Fees for hearings concerning compliance with the Codes or any rulings under them**

(1) Where a hearing takes place before the Takeovers Panel in any disciplinary proceedings instituted under section 12 of the

Introduction to the Codes, a fee, the amount of which shall be determined in accordance with subsection (3), shall, within 30 days after the delivery by the Takeovers Panel of its ruling, be payable to the Commission by any person who in the opinion of the Takeovers Panel -

- (a) has caused unnecessary expense to be incurred in connection with the investigation by the Commission of any allegation against the person or with the conduct of the hearing; or
- (b) has committed a breach of the Takeovers Code, the Share Repurchase Code or a ruling of the Executive or the Takeovers Panel.

(2) Where a hearing takes place before the Takeovers Panel for the purpose of deliberating the appropriate sanction to be imposed upon a person who has agreed that he is in breach of the Takeovers Code, the Share Repurchase Code or a ruling, a fee, the amount of which shall be determined in accordance with subsection (3), shall be payable to the Commission by the person within 30 days after the delivery by the Panel of its ruling.

(3) The fee payable under subsection (1) or (2) shall be \$50,000 and, in addition, \$20,000 in respect of each day or part of a day in excess of the first 2 days on which the Takeovers Panel meets for the purposes of the hearing in question.

#### **8. Fees for miscellaneous applications**

- (1) Subject to subsection (2), where any person makes an

application to the Executive for any ruling under the Takeovers Code or the Share Repurchase Code and no fee is otherwise provided for by these Rules for the application, a fee of \$24,000 shall be payable by the person to the Commission.

(2) Where a fee has been paid under section 5 on the submission of a first draft of a whitewash document, or of a draft in which a first draft of a whitewash document is combined with any first draft of any other document, no fee shall be payable under subsection (1) for an application to the Executive for a waiver in relation to the whitewash document under Note 1 on dispensations from Rule 26 of the Takeovers Code.

#### **9. Time for payment of fees**

(1) The fee prescribed in section 5 shall be payable -

(a) in the case of a fee payable under section 5(1), at the time when -

(i) subject to subparagraph (ii), the first draft concerned; or

(ii) where section 5(6)(a) applies, the draft concerned,

is submitted to the Executive; or

(b) in the case of a fee payable under section 5(3), at the time when -

(i) subject to subparagraph (i), the revised offer document concerned; or

(ii) where section 5(6)(b)(ii) applies, the

draft concerned (being the draft as revised to include the revised offer as described in that section 5(6)(b)(ii)), is submitted to the Executive.

(2) The fee prescribed in section 6(a) shall be payable at the time when the application concerned is made to the Takeovers Panel or the Takeovers Appeal Committee (as the case may be).

(3) The fee prescribed in section 8(1) shall be payable at the time when the application concerned is made to the Executive.

#### PART 4

##### FEES PRESCRIBED FOR THE PURPOSES OF SECTION 395(1)(b) OF THE ORDINANCE

#### **10. Fees which under the Ordinance are prescribed by rules**

A fee set out in column 2 of Schedule 3 is prescribed, opposite the fee, in column 3 of that Schedule.

#### PART 5

##### MISCELLANEOUS

#### **11. Waiver of fees**

(1) Subject to subsection (2), the Commission may, in relation to any person or class of persons -

- (a) waive, in whole or in part, the payment of any fee provided for under these Rules; or
- (b) refund, in whole or in part, any fee paid as provided for under these Rules,



if it is of the opinion that otherwise the payment of the fee would be unduly burdensome or inappropriate.

(2) The Commission may only -

(a) waive the payment of any fee prescribed in item 6 of Schedule 1 to the extent that the fee exceeds \$1,200;

(b) waive the payment of any fee prescribed in item 7 of Schedule 1 to the extent that the fee exceeds \$600.

(3) Where a corporation, an authorized financial institution or an individual -

(a) is, or applies to be, licensed, registered or approved for Type 1 or Type 2 regulated activity under section 116, 119, 120(1), 126 or 127(1) of the Ordinance; and

(b) is, or applies to be, licensed, registered or approved for Type 7 regulated activity under section 116, 119, 120(1), 126 or 127(1) of the Ordinance,

if the carrying on, or proposed carrying on, of Type 7 regulated activity by the corporation, authorized financial institution or individual (as the case may be) is incidental to the carrying on, or proposed carrying on, of Type 1 or Type 2 (as the case may be) regulated activity by the corporation, authorized financial institution or individual (as the case may be) -

(c) the payment of -

- (i) any fee prescribed in item 3, under paragraph (A), of Schedule 3 for Type 7 regulated activity;
  - (ii) any fee prescribed in item 5 of Schedule 3 for Type 7 regulated activity;
  - (iii) any fee prescribed in item 6, under paragraph (A), of Schedule 3 for Type 7 regulated activity;
  - (iv) any fee prescribed in item 12 of Schedule 3 for Type 7 regulated activity;
  - (v) any fee prescribed in item 13(a)(i), under paragraph (A), of Schedule 3 for Type 7 regulated activity;
  - (vi) any fee prescribed in item 13(b)(i), under paragraph (A), of Schedule 3 for Type 7 regulated activity; and
  - (vii) any fee prescribed in item 13(c)(i) of Schedule 3 for Type 7 regulated activity, shall be waived; and
- (d) the payment of any annual fee prescribed in item 18 of Schedule 3 for Type 7 regulated activity shall be waived.

(4) Where an event occurs which occasions the need to make an application under section 122(1) or (2), 126(1), 127(1) or 134(1) of the Ordinance as well as an application for which a fee is prescribed in item 9(a) or (b) (as the case may be) of Schedule

1, the payment of the fee prescribed in item 9(a) or (b) (as the case may be) of Schedule 1 for the latter application shall be waived.

**12. References relating to a fee prescribed in an item of Schedule 3**

(1) In these Rules, where any fee prescribed in an item in Schedule 3 is described as being so prescribed under paragraph (A) or paragraph (B) (as the case may be) -

- (a) the reference to paragraph (A) or paragraph (B) (as the case may be) is a reference to paragraph (A) or (B) (as the case may be) that appears in that item in column 3 of Schedule 3; and
- (b) the reference to the fee shall be construed as a reference to the part of the fee that is so prescribed under such paragraph (A) or paragraph (B) (as the case may be).

(2) Without prejudice to subsection (1), in these Rules, where any fee prescribed in an item in Schedule 3 (whether or not it is also described as so prescribed under paragraph (A) or (B)) is described as being so prescribed for any specified regulated activity or regulated activities, the reference to the fee shall be construed as a reference to the part of the fee that is so prescribed for such regulated activity or regulated activities.

**13. Transitional**

(1) Notwithstanding any other provisions of these Rules but

subject to section 11, the provisions set out in Schedule 4 shall have effect for a period of 2 years from the commencement of Part V of the Ordinance.

(2) For the avoidance of doubt, any provision set out in Schedule 4 relating to the payment of any fee prescribed in an item in Schedule 3 or the payment of any part of the fee shall not affect the payment of any other fee or the payment of any other part of the fee or any other fee (as the case may be).

## SCHEDULE 1

[ss. 2, 3 &amp; 11]

FEEES PRESCRIBED FOR THE PURPOSES OF SECTION 395(1)(a)(i),  
(iii) AND (iv) OF THE ORDINANCE

Item	Description	Amount
<b>Fees relating to Part III of the Ordinance</b>		
1.	Annual fee payable in respect of authorization of the provision of automated trading services under section 95(2) of the Ordinance	\$10,000
<b>Fee relating to Part IV of the Ordinance</b>		
2.	Fee payable on an application under section 104(1) of the Ordinance for -	
	(a) authorization of a collective investment scheme -	\$40,000, plus \$5,000 for each such fund
	(i) within which there is, or could be, more than	(excluding any such fund which is

- one fund; or
      - (ii) which maintains, or is capable of maintaining, more than one fund
    - (b) authorization of any other collective investment scheme
    - (c) extension of authorization of a collective investment scheme to cover an additional fund
- already within or maintained by another collective investment scheme which has been authorized under section 104 of the Ordinance)
- \$20,000
- \$5,000 (excluding any such fund which is already within or maintained by another collective investment scheme which has been authorized under section 104(1) of the Ordinance)

3. Fee payable in respect of -

- (a) authorization of a collective investment scheme under section 104 of the Ordinance -
- (i) within which there is, or could be, more than one fund; or
  - (ii) which maintains, or is capable of maintaining, more than one fund
- (b) authorization of any other collective investment scheme under section 104 of the Ordinance
- (c) extension of authorization of a collective investment scheme under section 104 of the Ordinance to cover an additional fund
- \$20,000, plus \$2,500 for each such fund (excluding any such fund which is already within or maintained by another collective investment scheme which has been authorized under section 104 of the Ordinance)
- \$10,000
- \$2,500 (excluding any such fund which is already within or maintained by another collective investment scheme which has been authorized under section 104 of the Ordinance)

4. Annual fee payable in respect of authorization of a collective investment scheme under section 104 of the Ordinance which is not limited to a period of less than 12 months -
- (a) in the case of a collective investment scheme -
    - (i) within which there is, or could be, more than one fund; or
    - (ii) which maintains, or is capable of maintaining, more than one fund
 \$7,500, plus \$4,500 for each such fund (excluding any such fund which is already within or maintained by another collective investment scheme which has been authorized under section 104 of the Ordinance)
  - (b) in the case of any other collective investment scheme \$6,000
5. Fee payable on an application for extension of the period of authorization of any collective investment scheme under section 104 of the Ordinance which authorization is limited to a period of less than 12 months. \$20,000

- |    |  |          |
|----|--|----------|
| 6. | Fee payable on an application under section 105(1) of the Ordinance for authorization of the issue of an advertisement, invitation or document other than that in respect of any collective investment scheme which is authorized under section 104 of the Ordinance | \$20,000 |
| 7. | Fee payable in respect of authorization of the issue of an advertisement, invitation or document under section 105 of the Ordinance other than that in respect of any collective investment scheme which is authorized under section 104 of the Ordinance            | \$10,000 |
| 8. | Fee payable on an application to modify a previous authorization under section 105 of the Ordinance of the issue of an advertisement, invitation or document in respect of -   |          |
|    | (a) any instrument specified in Part 2 of Schedule 4 to the Ordinance  | \$3,000  |
|    | (b) any certificate of deposit   | \$3,000  |
|    | (c) any securities other than  | \$3,000  |



interests in a collective  
investment scheme

**Fees relating to Part V of the Ordinance**

9. Fee payable on an application -
- (a) for the grant of a licence under \$200  
section 116, 117, 120 or 121 of  
the Ordinance where a licensed  
corporation or licensed  
representative has substantially  
changed its or his particulars  
since the grant of the existing  
licence
  - (b) for the grant of a certificate of \$200  
registration under section 119 of  
the Ordinance where a registered  
institution has substantially  
changed its particulars since the  
grant of the existing certificate  
of registration
10. Fee payable for renewal of a waiver or \$4,000  
modification referred to in item  
16(e), (f), (g), (h), (i) or (j) of  
Schedule 3
11. Fee payable pursuant to section \$200  
136(6)(b) for certification of a copy  
of a document as a true copy

**Fees relating to Part VI of the Ordinance**

12. Fee payable -
- (a) (subject to paragraph (c)) on an application under section 155(3)(a) of the Ordinance for approval in respect of an alteration of date on which the financial year ends \$2,000
  - (b) (subject to paragraph (c)) on an application under section 155(3)(b) of the Ordinance for approval in respect of the adoption of a period which exceeds 12 months as the financial year \$2,000
  - (c) on an application for approval in respect of both of the matters referred to in paragraphs (a) and (b) respectively \$2,000
13. Fee payable on an application under section 156(4) of the Ordinance for extension of the period within which financial documents and other document, and any auditor's report, are required to be submitted under section 156(1) or (2) of the Ordinance \$2,000

**Fees relating to Part XV of the Ordinance**

14. Fee payable on an application under \$24,000  
section 309(2) or (3) of the Ordinance  
for exemption from all or any of the  
provisions of Part XV of the Ordinance

**Miscellaneous fees**

15. Fee payable on submission of any \$10,000  
information or document to the  
Commission requiring its consideration  
and advice (including any advice  
relating to the application of Part IV  
of the Ordinance and any advice  
relating to the authorization for  
registration of a prospectus under  
section 38D or 342C of the Companies  
Ordinance (Cap. 32))
16. Fee payable on an application under \$6,000  
section 11 of the Securities and  
Futures (Client Securities) Rules  
(L.N. of 2002) for any approval
17. Fee payable for renewal of an approval \$4,000  
referred to in item 16
18. Fee payable on an application pursuant \$6,000  
to section 4(2)(b) of the Securities  
and Futures (Client Money) Rules (L.N.  
of 2002) for any approval

19. Fee payable for renewal of an approval \$4,000  
referred to in item 18
20. Fee payable on an application under  
section 38D or 342C of the Companies  
Ordinance (Cap. 32) for authorization  
for registration of a prospectus under  
that Ordinance -
- (a) in the case of rights issue \$15,000  
prospectus
- (b) in the case of Eurobond issue \$15,000  
prospectus
- (c) in the case of warrant issue \$10,000  
prospectus
- (d) in the case of prospectus nil  
relating to interests in a  
collective investment scheme
- (e) in the case of any prospectus, \$30,000  
not referred to in paragraph (a),  
(b), (c) or (d), which offers any  
shares in or debentures of a  
corporation that have been  
approved by a recognized exchange  
company for listing on a  
recognized stock market
- (f) in the case of any other \$30,000  
prospectus

21. Fee payable for a copy of a document \$9 per page provided by the Commission in the performance of a function under any of the relevant provisions for which no fee is otherwise prescribed in this Schedule

## SCHEDULE 2

[s. 5]

FEEES PRESCRIBED FOR THE PURPOSES OF SECTION 395(1)(a)(ii)  
OF THE ORDINANCE

Applicable value	Fee
Not exceeding \$75,000,000	\$25,000
Exceeding \$75,000,000 but not exceeding \$125,000,000	\$75,000
Exceeding \$125,000,000 but not exceeding \$300,000,000	\$150,000
Exceeding \$300,000,000 but not exceeding \$600,000,000	\$250,000
Exceeding \$600,000,000 but not exceeding \$1,200,000,000	\$350,000
Exceeding \$1,200,000,000 but not exceeding \$2,000,000,000	\$500,000
Exceeding \$2,000,000,000	\$500,000, plus 0.1% of the value over \$2,000,000,000

## SCHEDULE 3

[ss. 10, 11, 12 & 13  
& Schs. 1 & 4]FEES PRESCRIBED FOR THE PURPOSES OF SECTION 395(1)(b)  
OF THE ORDINANCE

Item	Description	Amount
<b>Fees relating to Part III of the Ordinance</b>		
1.	Prescribed application fee payable under section 96(1)(b) of the Ordinance on an application for authorization to provide automated trading services	\$10,000
2.	Prescribed fee payable under section 99(5)(b) of the Ordinance for a copy of an entry in or extract of a register maintained under section 99 of the Ordinance	\$9 per page
<b>Fees relating to Part V of the Ordinance</b>		
3.	Prescribed fee payable under section 116(1) of the Ordinance on an application for the grant of a licence for a licensed corporation	(A) \$4,740 for each regulated activity other than Type 3 regulated activity; and (B) \$129,730 for Type 3 regulated activity
4.	Prescribed fee payable under section 117(1) of the Ordinance	\$4,900 for each regulated activity

on an application for the grant  
of a licence for a licensed  
corporation for a period not  
exceeding 3 months

5. Prescribed fee payable under section 119(1) of the Ordinance on an application for the grant of registration for a registered institution \$23,500 for each regulated activity
6. Prescribed fee payable under section 120(1) of the Ordinance on an application for the grant of a licence for a licensed representative (A) \$1,790 for each regulated activity other than Type 3 regulated activity; and (B) \$2,420 for Type 3 regulated activity
7. Prescribed fee payable under section 120(2) of the Ordinance on an application for the grant of a provisional licence for a licensed representative \$800
8. Prescribed fee payable under section 121(1) of the Ordinance on an application for the grant of a licence for a licensed representative for a period not \$1,850 for each regulated activity

exceeding 3 months

9. Prescribed fee payable under \$200  
 section 122(1) of the Ordinance  
 on an application for approval of  
 an accreditation of a licensed  
 representative
10. Prescribed fee payable under \$200 for each regulated  
 section 122(2) of the Ordinance activity  
 on an application for approval of  
 a transfer of an accreditation of  
 a licensed representative
11. Prescribed fee payable under \$200  
 section 124(1) of the Ordinance  
 on an application for issue of a  
 duplicate licence or certificate  
 of registration
12. Prescribed fee payable under \$2,950 for each regulated  
 section 126(1) of the Ordinance activity  
 on an application for approval of  
 a person as a responsible officer
13. Prescribed fee payable under  
 section 127(1) of the Ordinance  
 on an application for variation  
 of any regulated activity -  
 (a) in the case of a licensed  
 corporation -



- |       |  |       |   |
|-------|--|-------|---|
| (i)   | for adding any regulated activity                                      | (A)   | \$4,740 for each regulated activity other than Type 3 regulated activity; and |
|       |  | (B)   | \$129,730 for Type 3 regulated activity                                       |
| (ii)  | (subject to subparagraph (iii))<br>for removing any regulated activity | \$200 | for each regulated activity   |
| (iii) | for removing all regulated activities specified in the licence         | nil   |   |

(b) in the case of a licensed representative -

- |      |                                   |       |   |
|------|-----------------------------------|-------|---|
| (i)  | for adding any regulated activity | (A)   | \$1,790 for each regulated activity other than Type 3 regulated activity; and |
|      |                                   | (B)   | \$2,420 for Type 3 regulated activity   |
| (ii) | (subject to                       | \$200 | for each regulated  |

subparagraph (iii)) activity

for removing any

regulated activity

(iii) for removing all nil

regulated

activities

specified in the

licence

(c) in the case of a registered

institution -

(i) for adding any \$23,500 for each regulated

regulated activity activity

(ii) (subject to \$200 for each regulated

paragraph (iii)) activity

for removing any

regulated activity

(iii) for removing all nil

regulated

activities

specified in the

certificate of

registration

14. Prescribed fee payable under \$1,000

section 130(1) of the Ordinance

on an application for approval of

premises

15. Prescribed fee payable under \$3,000  
section 132(1) of the Ordinance  
on an application for approval to  
become or continue to be a  
substantial shareholder
16. Prescribed fee payable under  
section 134(1) of the Ordinance  
for the grant of a modification  
or waiver in respect of -
- (a) any condition specified in \$2,000  
section 118 of the Ordinance  
or imposed under section 116,  
117, 119, 120, 121, 126 or  
132 of the Ordinance or any  
of the requirements of  
section 121(2)(a) of the  
Ordinance
- (b) any of the requirements of \$2,000  
sections 116(2)(b) and 125(1)  
and (2) of the Ordinance
- (c) any of the requirements of \$2,000  
sections 116(2)(c) and 130 of  
the Ordinance
- (d) any of the requirements of \$4,000  
section 129 of the Ordinance
- (e) any of the requirements of \$6,000

- the Securities and Futures  
(Financial Resources) Rules  
(L.N. of 2002) (other than  
one relating to hedging or  
arbitrage programmes)
- (f) any of the requirements of  
the Securities and Futures  
(Financial Resources) Rules  
(L.N. of 2002), relating to  
hedging or arbitrage  
programmes -
- (i) where at least one \$10,000  
side of the  
portfolio is less  
than \$10,000,000
- (ii) in any other case \$20,000
- (g) any of the requirements of \$6,000  
the Securities and Futures  
(Client Securities) Rules  
(L.N. of 2002)
- (h) any of the requirements of \$6,000  
the Securities and Futures  
(Client Money) Rules (L.N.  
of 2002)
- (i) any of the requirements of \$6,000  
the Securities and Futures

(Keeping of Accounts) Rules

(L.N. of 2002)

(j) any of the requirements of \$6,000

the Securities and Futures

(Contract Notes, Statements

of Account and Receipts)

Rules (L.N. of 2002)

17. Prescribed fee payable under \$9 per page

section 136(5)(b) of the

Ordinance for a copy of an entry

in or extract of a register

maintained under section 136 of

the Ordinance

18. Prescribed annual fee payable

under section 138(1) of the

Ordinance -

(a) in the case of a corporation (A) \$4,740 for each  
 licensed under section 116 regulated activity  
 of the Ordinance other than Type 3  
 regulated activity;

(B) \$129,730 for Type 3  
 regulated activity

(b) in the case of an individual

licensed under section

120(1) of the Ordinance -

(i) to the extent of (A) \$1,790 for each any regulated regulated activity activity for which other than Type 3 the individual is regulated activity; not approved as a and responsible officer (B) \$2,420 for Type 3 under section regulated activity 126(1) of the Ordinance

(ii) to the extent of (A) \$4,740 for each any regulated regulated activity activity for which other than Type 3 the individual is regulated activity; approved as a and responsible officer (B) \$5,370 for Type 3 under section regulated activity 126(1) of the Ordinance

(c) in the case of a registered \$35,000 for each regulated institution activity

**Miscellaneous fees**

19. Prescribed fee payable under \$6,000 section 58 of the Securities and Futures (Financial Resources) Rules (L.N. of 2002) on an application for any approval

20. Prescribed fee payable for \$4,000  
renewal of an approval referred  
to in item 19
21. Prescribed fee payable under \$24,000  
section 8(2) of the Securities  
and Futures (Disclosure of  
Interests - Securities Borrowing  
and Lending) Rules (L.N. of  
2002) on an application for  
approval as an approved lending  
agent

## SCHEDULE 4

[s. 13 &amp; Sch. 1]

## TRANSITIONAL PROVISIONS

**Interpretation of Schedule 4**

1. In this Schedule, a heading to any provision of this Schedule shall not have legislative effect and shall not in any way vary, limit or extend the interpretation of any provision of this Schedule.

**Fees for applications by persons already deemed  
to have been licensed, etc.**

2. Where -
- (a) a corporation which is deemed under section 22(a), (b), (c), (d) or (e) of Part 1 of Schedule 10 to the Ordinance to have been licensed applies under section 116(1) of the Ordinance for a licence to

carry on any of the regulated activities for which it is so deemed to have been licensed, the payment of the fee prescribed in item 3, under paragraph (A), of Schedule 3 for the regulated activities for which it so applies to be licensed shall be waived;

- (b) a corporation which is deemed under section 22(f) of Part 1 of Schedule 10 to the Ordinance to have been licensed applies under section 116(1) of the Ordinance for a licence to carry on the regulated activity for which it is so deemed to have been licensed, the payment of the fee prescribed in item 3, under paragraph (B), of Schedule 3 for the regulated activity for which it so applies to be licensed shall be waived.

3. Where an individual who is deemed under section 23(a), (b), (c), (d), (e) or (f) of Part 1 of Schedule 10 to the Ordinance to have been licensed and accredited to a corporation and is deemed under section 23 of Part 1 of Schedule 10 to the Ordinance to have been approved as a responsible officer of that corporation applies under section 120(1) of the Ordinance to be licensed for any of the regulated activities for which he is so deemed to have been licensed or applies under section 126(1) of the Ordinance for approval as an responsible officer of that corporation for any of the regulated activities for which he is so deemed to have been approved -



- (a) in the case of an application under section 120(1) of the Ordinance, the payment of the fee prescribed in item 6, under paragraph (A), of Schedule 3 for the regulated activities for which he so applies to be licensed shall be waived; or
- (b) in the case of an application under section 126(1) of the Ordinance, the payment of the fee prescribed in item 12 of Schedule 3 for the regulated activities for which he so applies for approval as a responsible officer shall be waived.

4. Where -

- (a) an individual who is deemed under section 24(a), (b), (c), (d) or (e), 29 or 30(a)(ii), (b)(ii), (c)(ii) or (d)(ii) of Part 1 of Schedule 10 to the Ordinance to have been licensed and accredited to a corporation applies under section 120(1) of the Ordinance for a licence to carry on any of the regulated activities for which he is so deemed to have been licensed for that corporation, the payment of the fee prescribed in item 6, under paragraph (A), of Schedule 3 for the regulated activities for which he so applies to be licensed shall be waived;
- (b) an individual who is deemed under section 24(f) of Part 1 of Schedule 10 to the Ordinance to have been

licensed and accredited to a corporation applies under section 120(1) of the Ordinance for a licence to carry on the regulated activity for which he is so deemed to have been licensed for that corporation, the payment of the fee prescribed in item 6, under paragraph (B), of Schedule 3 for the regulated activity for which he so applies to be licensed shall be waived.

5. Where an authorized financial institution which is deemed under section 25(a)(i) or (ii) of Part 1 of Schedule 10 to the Ordinance to have been registered applies under section 119(1) of the Ordinance for registration for any of the regulated activities for which it is so deemed to have been registered, the payment of the fee prescribed in item 5 of Schedule 3 for the regulated activities for which it so applies for registration shall be waived.

6. Where a corporation which is deemed under section 25(b)(i) or (ii) of Part 1 of Schedule 10 to the Ordinance to be a licensed corporation applies under section 116(1) of the Ordinance to carry on any of the regulated activities for which it is so deemed to have been licensed, the payment of the fee prescribed in item 3, under paragraph (A), of Schedule 3 for the regulated activities for which it so applies to be licensed shall be waived.

7. Where -

- (a) a corporation, partnership or individual is deemed under section 25(b) of Part 1 of Schedule 10 to the Ordinance to be a licensed corporation ("deemed licensed corporation"); and
- (b) an individual is deemed under section 26(ii) of Part 1 of Schedule 10 to the Ordinance to have been licensed and accredited to the deemed licensed corporation,

if the individual applies under section 120(1) of the Ordinance for a licence to carry on any of the regulated activities for which he is so deemed to have been licensed for the deemed licensed corporation, the payment of the fee prescribed in item 6, under paragraph (A), of Schedule 3 for the regulated activities for which he so applies to be licensed shall be waived.

8. Where a corporation succeeds the business of a partnership which was, at the commencement of Part V of the Ordinance, deemed under section 27(a), (b), (c) or (d) of Part 1 of Schedule 10 to the Ordinance to have been licensed, and not less than half of the shares in the corporation are owned by at least half of the former partners of the partnership, if the corporation applies under section 116(1) of the Ordinance for a licence to carry on any of the regulated activities for which the partnership was so deemed to have been licensed, the payment of the fee prescribed in item 3, under paragraph (A), of Schedule 3 for the regulated activities

for which it so applies to be licensed shall be waived.

9. Where a partner of a partnership who is deemed under section 28(a), (b), (c) or (d) of Part 1 of Schedule 10 to the Ordinance to have been licensed and accredited to a corporation and is deemed under section 28 of Part 1 of Schedule 10 to the Ordinance to have been approved as a responsible officer of that corporation applies under section 120(1) of the Ordinance to be licensed for any of the regulated activities for which he is so deemed to have been licensed for that corporation or applies under section 126(1) of the Ordinance for approval as an responsible officer of that corporation for any of the regulated activities for which he is so deemed to have been approved -

- (a) in the case of an application under section 120(1) of the Ordinance, the payment of the fee prescribed in item 6, under paragraph (A), of Schedule 3 for the regulated activities for which he so applies to be licensed shall be waived; or
- (b) in the case of an application under section 126(1) of the Ordinance, the fee prescribed in item 12 of Schedule 3 for the regulated activities for which he so applies for approval as a responsible officer shall be waived.

10. Where a corporation succeeds the business of an individual who was, at the commencement of Part V of the Ordinance, deemed

under section 30(a)(i), (b)(i), (c)(i) or (d)(i) of Part 1 of Schedule 10 to the Ordinance to be a licensed corporation, and not less than half of the shares in the corporation are owned by the individual, if the corporation applies under section 116(1) of the Ordinance for a licence to carry on any of the regulated activities for which the individual was so deemed to have been licensed, the payment of the fee prescribed in item 3, under paragraph (A), of Schedule 3 for the regulated activities for which it so applies to be licensed shall be waived.

11. Where -

- (a) an individual applies under section 126(1) of the Ordinance for approval as a responsible officer of another individual who is deemed under section 30(a)(i), (b)(i), (c)(i) or (d)(i) of Part 1 of Schedule 10 to the Ordinance to be a licensed corporation, for any of the regulated activities for which the other individual is so deemed to have been licensed; or
- (b) an individual applies under section 126(1) of the Ordinance for approval as a responsible officer of a licensed corporation which has succeeded another individual who was deemed under section 30(a)(i), (b)(i), (c)(i) or (d)(i) of Part 1 of Schedule 10 to the Ordinance to be a licensed corporation, for any of the regulated activities for which the

first-mentioned licensed corporation is licensed and for which the second-mentioned individual was so deemed to have been licensed, and not less than half of the shares in the first-mentioned licensed corporation are owned by the second-mentioned individual,

then -

- (c) the payment of the fee prescribed in item 12 of Schedule 3 for the regulated activities for which the individual so applies for approval as a responsible officer shall be waived; and
- (d) if the individual is so approved as a responsible officer, the payment of the annual fee prescribed in item 18(b)(ii), under paragraph (A), of Schedule 3 for each of the regulated activities for which he is licensed as a licensed representative and for which he is so approved as a responsible officer shall be waived to the extent that the annual fee so prescribed for each of such regulated activities exceeds \$1,790.

12. Where an individual who is deemed under section 30(a)(ii), (b)(ii), (c)(ii) or (d)(ii) of Part 1 of Schedule 10 to the Ordinance to have been licensed and accredited to a corporation and is deemed under section 30(a)(iii), (b)(iii), (c)(iii) or (d)(iii) of Part 1 of Schedule 10 to the Ordinance to have been

approved as a responsible officer of that corporation applies under section 120(1) of the Ordinance to be licensed for any of the regulated activities for which he is so deemed to have been licensed or applies under section 126(1) of the Ordinance to be approved as a responsible officer of that corporation for any of the regulated activities for which he is so deemed to have been approved -

- (a) in the case of an application under section 120(1) of the Ordinance, the payment of the fee prescribed in item 6, under paragraph (A), of Schedule 3 for the regulated activities for which he so applies to be licensed shall be waived; or
- (b) in the case of an application under section 126(1) of the Ordinance, the payment of the fee prescribed in item 12 of Schedule 3 for the regulated activities for which he so applies for approval as a responsible officer shall be waived.

13. Where an individual who is deemed under section 31(a), (b), (c) or (d) of Part 1 of Schedule 10 to the Ordinance to have been licensed and accredited to another individual (who is deemed under section 30 of Part 1 of Schedule 10 to the Ordinance to be a licensed corporation) applies under section 120(1) of the Ordinance for a licence to carry on any of the regulated activities for which he is so deemed to have been licensed for that other individual, the payment of the fee prescribed in item 6,

under paragraph (A), of Schedule 3 for the regulated activities for which he so applies to be licensed shall be waived.

14. Where a licensed bank which is deemed under section 32 of Part 1 of Schedule 10 to the Ordinance to have been registered applies under section 119(1) of the Ordinance for registration for any of the regulated activities for which it is so deemed to have been registered, the payment of the fee prescribed in item 5 of Schedule 3 for the regulated activities for which it so applies for registration shall be waived.

**Other fees relating to corporations other than exempt  
dealers and exempt investment advisers**

15. Where a corporation is deemed under section 22(a), (b), (d) or (e) of Part 1 of Schedule 10 to the Ordinance to have been licensed, the annual fee prescribed in item 18(a), under paragraph (A), of Schedule 3 for the regulated activities for which it is so deemed to have been licensed shall be waived to the extent that the annual fee so prescribed for the regulated activities exceeds \$4,740.

16. Where an individual is deemed under section 23(a), (b), (d) or (e) of Part 1 of Schedule 10 to the Ordinance to have been licensed and is deemed under section 23 of Part 1 of Schedule 10 to the Ordinance to have been approved as a responsible officer, the annual fee prescribed in item 18(b)(ii), under paragraph (A), of Schedule 3 for the regulated activities for which he is so



deemed to have been licensed and for which he is so deemed to have been approved as a responsible officer shall be waived to the extent that the annual fee so prescribed for the regulated activities exceeds \$4,740.

17. Where an individual is deemed under section 23(c) of Part 1 of Schedule 10 to the Ordinance to have been licensed and is deemed under section 23 of Part 1 of Schedule 10 to the Ordinance to have been approved as a responsible officer, the payment of the annual fee prescribed in item 18(b)(ii), under paragraph (A), of Schedule 3 for the regulated activity for which he is so deemed to have been licensed and for which he is so deemed to have been approved as a responsible officer shall be waived to the extent that the annual fee so prescribed for the regulated activity exceeds \$1,790.

18. Where an individual is deemed under section 23(f) of Part 1 of Schedule 10 to the Ordinance to have been licensed and is deemed under section 23 of Part 1 of Schedule 10 to the Ordinance to have been approved as a responsible officer, the payment of the annual fee prescribed in item 18(b)(ii), under paragraph (B), of Schedule 3 for the regulated activity for which he is so deemed to have been licensed and for which he is so deemed to have been approved as a responsible officer shall be waived to the extent that the annual fee so prescribed for the regulated activity exceeds \$2,420.

19. Where an individual is deemed under section 24(a), (b), (d) or (e) of Part 1 of Schedule 10 to the Ordinance to have been licensed, the annual fee prescribed in item 18(b)(i), under paragraph (A), of Schedule 3 for the regulated activities for which he is so deemed to have been licensed shall be waived to the extent that the annual fee so prescribed for the regulated activities exceeds \$1,790.

20. Where a corporation is deemed under section 22(c) or (f) of Part 1 of Schedule 10 to the Ordinance to have been licensed, if an individual applies under section 126(1) of the Ordinance for approval as a responsible officer of the corporation for the regulated activity for which the corporation is so deemed to have been licensed, the payment of the fee prescribed in item 12 of Schedule 3 for the regulated activity for which he so applies for approval as a responsible officer shall be waived.

21. Where a corporation is deemed under section 22(a), (b), (d) or (e) of Part 1 of Schedule 10 to the Ordinance to have been licensed, and only one individual was, at the commencement of Part V of the Ordinance, deemed under section 23 of Part 1 of Schedule 10 to the Ordinance to have been approved as a responsible officer of the corporation, if -

- (a) an individual applies under section 126(1) of the Ordinance for approval as the second responsible

officer of the corporation for any of the regulated activities for which the corporation is so deemed to have been licensed; and

- (b) the corporation has, at the time of the application, only one responsible officer who is approved for the same regulated activities for which the individual is applying for approval as a responsible officer,

then -

- (c) the payment of the fee prescribed in item 12 of Schedule 3 for the regulated activities for which he applies for approval as a responsible officer shall be waived; and
- (d) if the individual is so approved as the second responsible officer of the corporation, the payment of the annual fee prescribed in item 18(b)(ii), under paragraph (A), of Schedule 3 for each of the regulated activities for which he is licensed as a licensed representative and for which he is so approved as a responsible officer shall be waived to the extent that the annual fee so prescribed for each of such regulated activities exceeds \$1,790.

22. Where a corporation is deemed under section 22(c) of Part 1 of Schedule 10 to the Ordinance to have been licensed, if an individual is licensed under section 120(1) of the Ordinance for

Type 8 regulated activity and is approved under section 126(1) of the Ordinance as a responsible officer of the corporation, the payment of the annual fee prescribed in item 18(b)(ii), under paragraph (A), of Schedule 3 for the regulated activity for which he is so licensed and for which he is so approved as a responsible officer shall be waived to the extent that the annual fee so prescribed for the regulated activity exceeds \$1,790.

23. Where a corporation is deemed under section 22(f) of Part 1 of Schedule 10 to the Ordinance to have been licensed, if an individual is licensed under section 120(1) of the Ordinance for Type 3 regulated activity and is approved under section 126(1) of the Ordinance as a responsible officer of the corporation, the payment of the annual fee prescribed in item 18(b)(ii), under paragraph (B) of Schedule 3 for the regulated activity for which he is so licensed and for which he is so approved as responsible officer shall be waived to the extent that the annual fee so prescribed for the regulated activity exceeds \$2,420.

**Other fees relating to exempt dealers or  
exempt investment advisers**

24. Where -

- (a) an authorized financial institution is deemed under section 25(a)(i) of Part 1 of Schedule 10 to the Ordinance to have been registered, the payment of the annual fee prescribed in item 18(c) of Schedule 3 for the regulated activities for which it is so

deemed to have been registered shall be waived to the extent that the annual fee so prescribed for the regulated activities exceeds \$14,000;

- (b) an authorized financial institution is deemed under section 25(a)(ii) of Part 1 of Schedule 10 to the Ordinance to have been registered, the payment of the annual fee prescribed in item 18(c) of Schedule 3 for the regulated activities for which it is so deemed to have been registered shall be waived to the extent that the annual fee so prescribed for the regulated activities exceeds \$7,000.

25. Where -

- (a) a corporation, partnership or individual is deemed under section 25(b)(i) of Part 1 of Schedule 10 to the Ordinance to have been licensed, the payment of the annual fee prescribed in item 18(a), under paragraph (A), of Schedule 3 for the regulated activities for which it is so deemed to have been licensed shall be waived to the extent that the annual fee so prescribed for the regulated activities exceeds \$14,000;
- (b) a corporation is deemed under section 25(b)(ii) of Part 1 of Schedule 10 to the Ordinance to have been licensed, the payment of the annual fee prescribed in item 18(a), under paragraph (A), of Schedule 3

for the regulated activities for which it is so deemed to have been licensed shall be waived to the extent that the annual fee so prescribed for the regulated activities exceeds \$7,000.

26. Where -

- (a) a corporation, partnership or individual is deemed under section 25(b) of Part 1 of Schedule 10 to the Ordinance to be a licensed corporation ("deemed licensed corporation"); and
- (b) an individual is deemed under section 26(ii) of Part 1 of Schedule 10 to the Ordinance to have been licensed and accredited to the deemed licensed corporation,

if the individual carries on, for the deemed licensed corporation, any of the regulated activities for which both the individual and the deemed licensed corporation are so deemed to have been licensed, the payment of the annual fee prescribed in item 18(b)(i), under paragraph (A), of Schedule 3 for the regulated activities for which he is so deemed to have been licensed shall be waived.

**Other fees relating to partnerships, etc.**

27. Where a partnership is deemed under section 27(a), (b), (c) or (d) of Part 1 of Schedule 10 to the Ordinance to have been licensed, the annual fee prescribed in item 18(a), under paragraph

(A), of Schedule 3 for the regulated activities for which it is so deemed to have been licensed shall be waived to the extent that the annual fee so prescribed for the regulated activities exceeds \$4,740.

28. Where an individual is deemed under section 28(a), (b), (c) or (d) of Part 1 of Schedule 10 to the Ordinance to have been licensed and is deemed under section 28 of Part 1 of Schedule 10 to the Ordinance to have been approved as a responsible officer, the annual fee prescribed in item 18(b)(ii), under paragraph (A), of Schedule 3 for the regulated activities for which he is so deemed to have been licensed and for which he is so deemed to have been approved as a responsible officer shall be waived to the extent that the annual fee so prescribed for the regulated activities exceeds \$4,740.

29. Where an individual is deemed under section 29(a), (b), (c) or (d) of Part 1 of Schedule 10 to the Ordinance to have been licensed, the annual fee prescribed in item 18(b)(i), under paragraph (A), of Schedule 3 for the regulated activities for which he is so deemed to have been licensed shall be waived to the extent that the annual fee so prescribed for the regulated activities exceeds \$1,790.

**Other fees relating to sole proprietors, etc.**

30. Where an individual -

- (a) is deemed under section 30(a)(i), (b)(i), (c)(i) or(d)(i) of Part 1 of Schedule 10 to the Ordinance to be a licensed corporation;
- (b) is deemed under section 30(a)(ii), (b)(ii), (c)(ii) or (d)(ii) of Part 1 of Schedule 10 to the Ordinance to have been licensed; and
- (c) is deemed under section 30(a)(iii), (b)(iii), (c)(iii) or (d)(iii) to have been approved as a responsible officer,

then -

- (d) the payment of the annual fee prescribed in item 18(a) under paragraph (A), of Schedule 3 for the regulated activities for which he is so deemed under section 30(a)(i), (b)(i), (c)(i) or (d)(i) of Part 1 of Schedule 10 to the Ordinance to be a licensed corporation shall be waived; and
- (e) the payment of the annual fee prescribed in item 18(b)(ii), under paragraph (A), of Schedule 3 for the regulated activities for which he is so deemed under section 30(a)(ii), (b)(ii), (c)(ii) or (d)(ii) of Part 1 of Schedule 10 to the Ordinance to have been licensed and for which he is so deemed under section 30(a)(iii), (b)(iii), (c)(iii), or (d)(iii) of Part 1 of Schedule 10 to the Ordinance to have been approved as a responsible officer shall be waived to the extent that the annual fee so



prescribed for the regulated activities exceeds \$4,740.

31. Where an individual is deemed under section 31(a), (b), (c) or (d) of Part 1 of Schedule 10 to the Ordinance to have been licensed, the annual fee prescribed in item 18(b)(i), under paragraph (A), of Schedule 3 for the regulated activities for which he is so deemed to have been licensed shall be waived to the extent that the annual fee so prescribed for the regulated activities exceeds \$1,790.

**Other fees relating to licensed banks**

32. Where a licensed bank is deemed under section 32 of Part 1 of Schedule 10 to the Ordinance to have been registered, the payment of the annual fee prescribed in item 18(c) of Schedule 3 for the regulated activities for which it is so deemed to have been registered shall be waived.

**Miscellaneous**

33. For the purposes of sections 34, 35, 36 and 37 -

"relevant period" ( ) means the period from the date on which the Commission receives an application provided for in section 2, 3, 4, 5, 6, 8, 9, 10, 12 or 13 to the end of the transitional period;

"transitional period" ( ) means the period of 2 years from the commencement of Part V of the Ordinance.

34. Notwithstanding any other provisions of this Schedule, where a person who is within any of the descriptions set out in column 1 of Schedule 5 immediately before the commencement of Part V of the Ordinance makes an application provided for in section 2, 3, 4, 5, 6, 8, 9, 10, 12 or 13 during the first year of the transitional period and is granted a licence, certificate of registration or approval (as the case may be) within the transitional period, the person shall be entitled to a reduction, which is equivalent to 5% of the amount set out, opposite such description, in column 2 of that Schedule, from the annual fee prescribed in item 18 of Schedule 3 as determined under sections 1 to 32 of this Schedule and payable by the person for the relevant period, in the manner described in section 35.

35. For the purposes of section 34 -

(a) where the licence, certificate of registration or approval concerned is granted during the first year of the transitional period -

(i) the reduction for the period from the date on which the application concerned is received by the Commission to the first anniversary of the date of the grant of the licence, certificate of registration or approval (as the case may be) shall be made in the annual fee

prescribed in item 18 of Schedule 3 as determined under sections 1 to 32 of this Schedule on the first occasion on which it is payable after the grant of the licence, certificate of registration or approval (as the case may be); and

(ii) the reduction for the period from the first anniversary of the date of the grant of the licence, certificate of registration or approval (as the case may be) to the end of the transitional period shall be made in the annual fee on the second occasion on which it is payable after the grant of the licence, certificate of registration or approval (as the case may be); and

(b) where the licence, certificate of registration or approval concerned is granted during the second year of the transitional period, the reduction for the relevant period shall be made in the annual fee on the first occasion on which it is payable after the grant of the licence, certificate of registration or approval (as the case may be).

36. Nothing in section 34 affects, limits or diminishes any liabilities a person may have in the payment of any annual fee

prescribed in item 18 of Schedule 3, or any part of such annual fee, beyond the transitional period.

37. Where a person is required to pay an annual fee prescribed in item 18 of Schedule 3 which relates to a period extending beyond the transitional period -

- (a) this Schedule applies to the determination of the part of the annual fee that relates to the period falling before the end of the transitional period;
- (b) this Schedule does not apply to the determination of the part of the annual fee that relates to the period falling after the end of the transitional period.

38. Where a person is required to pay an annual fee prescribed in item 18 of Schedule 3, the part of the annual fee that relates to a period for which that person has already paid an annual fee under the Securities and Futures Commission (Fees) Rules (Cap. 24 sub. leg.) repealed under section 406 of the Ordinance, before the commencement of Part V of the Ordinance, shall be waived.

39. The provisions of this Schedule shall continue to apply in respect of any person deemed under Part 1 of Schedule 10 to the Ordinance to have been licensed, registered or approved as a responsible officer upon the commencement of Part V of the Ordinance or any successor of such person notwithstanding that

such person or such successor has been granted a licence under section 116 or 120(1) of the Ordinance, registration under section 119 of the Ordinance, or approval under section 126 of the Ordinance as a responsible officer.

## SCHEDULE 5

[Sch. 4]

## REDUCTION

Description	Amount \$
1. The following person within the meaning of the repealed Securities Ordinance -	
(a) exempt dealer	14,000
(b) exempt investment adviser	7,000
(c) dealer	4,900
(d) investment adviser	4,900
(e) securities margin financier	4,900
(f) dealer's representative	1,850
(g) investment representative	1,850
(h) securities margin financier's representative	1,850
2. The following person within the meaning of the repealed Commodities Trading Ordinance -	
(a) dealer	4,900
(b) commodity trading adviser	4,900
(c) dealer's representative	1,850
(d) commodity trading adviser's representative	1,850
3. The following person within the meaning of the repealed Leveraged Foreign Exchange Trading Ordinance -	
(a) leveraged foreign exchange trader	133,750

(b) leveraged foreign exchange trader's  
representative

2,500

Clerk to the Executive Council

COUNCIL CHAMBER

2002

#### **Explanatory Note**

These Rules are made by the Chief Executive in Council under section 395 of the Securities and Futures Ordinance (Cap. 571) after consultation with the Securities and Futures Commission. They require and provide for the payment to the Commission of, and prescribe, fees for matters relating to applications to the Commission or performance of functions under the relevant provisions. They also prescribe fees which under the Ordinance are prescribed by rules.

2. These Rules also provide for waivers of certain application fees and annual fees during the period of 2 years immediately after the commencement of Part V of the Ordinance.

**Consultation Document**  
**Proposed Licensing Fees under the Securities and Futures (Fees) Rules**  
**(the “Proposed Licensing Fee Schedule”)**

**Introduction**

1. The Securities and Futures Bill gives the Commission the necessary rule-making power under clause 382 to prescribe fees in the subsidiary legislation. The basis for this approach is that, consistent with modern securities legislation such as the UK Financial Services and Markets Act, effective regulation depends upon the regulator having the flexibility to quickly address changing market practices and global conditions, by amending the rules rather than the primary legislation.
2. There are controls already built into the legislative system whereby any rules made by the Commission must be subject to negative vetting by the Legislative Council. In addition, the Commission has now released the Proposed Licensing Fee Schedule under the Securities and Futures (Fees) Rules.
3. The SFC has sent copies of this Consultation Document to all licensed intermediaries using the FinNet communication network . In addition, the public may obtain copies of the consultation document free of charge at the SFC’s office and on the SFC’s Internet website at <http://www.hksfc.org.hk>.
4. The public is invited to submit comments before the close of business on **8 April 2002**. Written comments may be sent:

By mail to:                   SFC Application and Annual Fees  
                                  12/F Edinburgh Tower  
                                  The Landmark  
                                  15 Queen’s Road Central  
                                  Hong Kong

By fax to:                    2293-5686

By on-line submission: <http://www.hksfc.org.hk>

By e-mail to:                Application\_annual\_fees@hksfc.org.hk

**Please note that the names of the commentators and the contents of their submissions may be published on the SFC website and in other documents to be published by the SFC. In this connection, please read the Personal Information Collection Statement attached to this consultation paper as Appendix 2.**

**You may not wish your name and/or submission to be published by the SFC. If this is the case, please state that you wish your name and/or submission to be withheld from publication when you make your submission.**

## **Background**

5. The Securities and Futures (Fees) Rules (the “Rules”) is a proposed piece of subsidiary legislation to be made under the Securities and Futures Bill (“the Bill”). All fees and charges, including licensing fees payable to the Commission, will be specified in the Rules.
6. Since the structure of the new licensing regime (Appendix 1) will differ significantly from the existing one, a new set of licensing fees should be adopted.
7. The SFC intends to reduce license fees. However, this must be considered in light of the fact that these fees have been in place and unchanged since 1993/94 and at present licensing fee revenue accounts for only 68% of total costs of licensing and supervision of intermediaries and market conduct expended by the SFC. Furthermore, the Consumer Price Index has risen 28.3% since March 1993 with no increase made to licensing fees.
8. The SFC is in the process of re-engineering and streamlining our licensing procedures in preparation for the new Single Licensing regime to be promulgated in the Bill. In the process of re-engineering, we are designing a more efficient and cost-effective licensing regime and we hope to pass on some of the savings made directly to the registrants. However, the amount of savings made must be balanced against the fact that the SFC is running a deficit of \$88 million for 2001/02 and a possible \$118 million deficit for 2002/03.
9. With this in mind, the SFC has decided to pass on a 3% direct discount on licensing fees to registrants. There will also be an additional discount of 5% to encourage registrants to apply early, bringing the total discount to a maximum of 8%.
10. A copy of the Proposed Licensing Fee Schedule is attached as Appendix 3. This consultation paper is issued to seek the market’s view on these proposals.

## **Highlights**

### ***Application Fees and Annual Fees***

11. It is proposed that a standard fee will be charged for each of the regulated activities, with the exception of leveraged foreign exchange trading. As is the case under the current regime, a higher fee will be charged for leveraged foreign exchange trading under the new regime.



12. As registrants are currently operating under difficult economic conditions, it is proposed that all license application and annual fees (for companies and individuals) will be reduced by 3%. However, no reduction will be granted in respect of applications for temporary licences. In addition, there will be no reduction for Registered Institutions but instead a moderate increase in the annual fees. This is to reflect the enhanced functions and responsibilities assumed by the Hong Kong Monetary Authority under the new regime in respect of the on-going supervision of Registered Institutions.
13. Intermediaries including Registered Institutions have a transitional period of two years from commencement of the Bill to apply to migrate to the new regime. As an incentive for existing licensees and exempt persons to apply early, a 5% discount on the fees will be given to intermediaries who apply during the first year of the transitional period. This discount will be applicable to both the application fee and any annual fees for the period starting from the date of the submission of the application for migration until the expiry of the transitional period.

#### *Waiver*

14. It is proposed that securities and futures dealers who carry out Internet dealing services need not pay additional application and annual fees for providing automated trading services. This waiver will also be available to Registered Institutions.

#### *Transitional Period*

15. During the transitional period, existing licensees and exempt persons are deemed to be licensed for regulated activities that they are already licensed for or exempt from registration under the existing regime. This arrangement will stand irrespective of when these licensees and exempt persons choose to apply to migrate to the new regime.
16. It is proposed that during the transitional period, these licensees or exempt persons do not incur additional fees over and above those that they are currently required to pay under the existing regime. This arrangement entails that the following fees be waived for the duration of the transitional period whether or not the relevant licensee or exempt person has applied to migrate to the new regime:
  - Existing licensees and exempt persons who carry out more than one regulated activity under one licence will only need to pay a single annual fee (i.e. a fee for only one regulated activity) under the new regime.
  - Sole-proprietors will need to incorporate their businesses and appoint at least two responsible officers. However, the newly incorporated firm is only required to pay the annual fee for one responsible officer.
  - Under the current regime, the responsible directors of leveraged foreign exchange traders and securities margin financiers do not have to pay any additional fees as opposed to representatives. These responsible directors will continue to enjoy this fee waiver during the transitional period.

- Corporate licensees who currently have one supervisory director will have to appoint an additional responsible officer under the new regime. The fee for the additional responsible officer will be waived.
17. The waivers stated in paragraph 16 will also be available to existing licensees and exempt persons applying to migrate to the new regime during the transitional period.

### ***New Fees***

18. New fees will be introduced for industry participants who take advantage of certain policy initiatives. This includes:
- An application fee for a provisional licence<sup>1</sup>;
  - Application fee for approval of premises, or alternative premises, for keeping records or documents;
  - Application fee for approval as a substantial shareholder of a licensed corporation;
  - Application fee for a waiver or modification under various sections of the legislation; and
  - Application fee for written confirmation on a person's licensing status.

As the Commission will incur additional processing costs, it is appropriate that the costs should be borne by the applicants.

### ***Final Note***

19. The Bill introduces a single licensing system for market intermediaries. Such an approach would do away with the need for a firm to apply for two or more licences or to set up subsidiaries to engage in different regulated activities, thus allowing for a more efficient allocation of capital and deployment of resources. It is therefore expected that this new regulatory initiative will cut down the compliance costs for intermediaries. However, the economic benefits of it would not be apparent until the firms streamline their businesses in an effort to reduce the number of licensed entities.
20. There has been speculation that there will be significant reduction in licensing fees following the implementation of the new licensing regime. In real fact, the savings to the Commission are derived mainly from a reduction in clerical work due to the sharing of information between regulated activities under a single licensing system. This saving is almost insignificant relative to the cost of managerial resources required to assess and supervise the nine different regulated activities.

### **Consultation**

21. The Commission welcomes any comment industry practitioners and members of the investing public may have on the Proposed Licensing Fee Schedule.

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<sup>1</sup> The Bill empowers the Commission to issue provisional licences (i.e. prior to the completion of the necessary vettings). These provisional licences can be issued within a matter of days, as compared to an average of 6 weeks for a normal application.



## **SALIENT FEATURES OF THE NEW REGIME**

The structure of the new licensing system is based on a “one licence, multiple categories” approach. Intermediaries will only require one licence which indicates the area(s) in which the intermediary is authorised to provide services. The following are some of the key features of the new licensing system:

- There will be nine categories of regulated activities under the new licensing system. Firms performing different regulated activities will now be able to register under the name of one corporate entity to reduce their administrative burden and costs. The nine types of regulated activities are:
  - Type 1: dealing in securities;
  - Type 2: dealing in futures contracts;
  - Type 3: leverage foreign exchange trading;
  - Type 4: advising on securities;
  - Type 5: advising on futures contracts;
  - Type 6: advising on corporate finance;
  - Type 7: providing automated trading services;
  - Type 8: securities margin financing;
  - Type 9: asset management.
- The current system will be replaced by a two-tier system, consisting of corporations and representatives only. All registered or licensed individuals under the current system will be licensed as representatives under the new system.
- Under the new system, intermediaries will be required to appoint at least two qualified “responsible officers” for each regulated activity for which the intermediary is licensed. The same persons may be designated as responsible officers for different activities of the same intermediary provided they are found to be fit and proper to carry out each respective activity.
- Intermediaries will no longer be allowed to be registered as sole-proprietors or partnerships. Current registrants under these categories will have to form corporations in order to be licensed under the new regime.

There will be a transitional period of two years during which existing registrants can continue to do business under their current registration.

## **Personal Information Collection Statement**

1. This Personal Information Collection Statement (“PICS”) is made in accordance with the guidelines issued by the Privacy Commissioner for Personal Data. The PICS sets out the purposes for which your Personal Data<sup>1</sup> will be used following collection, what you are agreeing to with respect to the SFC’s use of your Personal Data and your rights under the Personal Data (Privacy) Ordinance (“PDPO”).

### **Purpose of Collection**

2. The Personal Data provided in your submission to the SFC in response to the Consultation Document on the Proposed Licensing Fee under the Securities and Futures (Fees) Rules (“the Consultation Document”) may be used by the SFC for one or more of the following purposes:
  - to administer the relevant Ordinances, rules, regulations, codes and guidelines made or promulgated pursuant to the powers vested in the SFC
  - for the purposes of performing the SFC’s statutory functions under the relevant Ordinances
  - for research and statistical purposes
  - other purposes permitted by law

### **Transfer of Personal Data**

3. Personal Data may be disclosed by the SFC to the members of the public in Hong Kong and elsewhere, as part of the public consultation on the Consultation Document. The names of persons who submit comments on the Consultation Document together with the whole or part of their submission may be disclosed to members of the public. This will be done by publishing this information on the SFC web site and in documents to be published by the SFC throughout and at the conclusion of the consultation period.

### **Access to Data**

4. You have the right to request access to and correction of your Personal Data in accordance with the provisions of the PDPO. Your right of access includes the right to obtain a copy of your Personal Data provided in your submission on the

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<sup>1</sup> Personal Data means personal data as defined in the Personal Data (Privacy) Ordinance, Cap 486 (“PDPO”)

Consultation Document. The SFC has the right to charge a reasonable fee for processing any data access request.

## **Enquiries**

5. Any enquiries regarding the Personal Data provided in your submission on the Consultation Document, or requests for access to Personal Data or correction of Personal Data, should be addressed in writing to:

The Data Privacy Officer  
The Securities and Futures Commission  
12/F, Edinburgh Tower  
The Landmark  
15 Queen's Road  
Central  
Hong Kong

**A copy of the Privacy Policy Statement adopted by the SFC is available upon request.**

## PROPOSED LICENSING FEE SCHEDULE UNDER THE NEW LICENSING REGIME

	Proposed new fee
	\$
<b>Application fees to be Licensed</b>	
(1) Fee payable on application by a corporation under section 115 of the Ordinance for a licence to carry on any one Type, and per additional Type, of regulated activity, other than Type 3 regulated activity	4,750
(2) Fee payable on application by an individual under section 119 of the Ordinance for a licence to carry on any one Type, and per additional Type of regulated activity, other than Type 3 regulated activity	1,790
(3) Fee payable on application by a corporation under section 115 of the Ordinance for a licence to carry on Type 3 regulated activity	129,730
(4) Fee payable on application by an individual under section 119 of the Ordinance for a licence to carry on Type 3 regulated activity	2,420
(5) Additional fee payable on request by an individual under section 119(2) for a provisional licence	800
(6) Fee payable on application by a corporation under section 116 of the Ordinance for a temporary licence to carry on any one Type, and per additional Type, of regulated activity, other than Type 3 regulated activity	4,900
(7) Fee payable on application by an individual under section 120 of the Ordinance for a temporary licence to carry on any one Type, and per additional Type, of regulated activity	1,850
<b>Application fees for Changes to a Licence</b>	
(8) Fee payable on application by a licensed representative under section 121(1) of the Ordinance for additional accreditation(s)	200
(9) Fee payable on application by a licensed representative under section 121(2) of the Ordinance for transfer of accreditation, per Type of regulated activity	200
(10) Fee payable on application by a licensed representative under section 125(1) of the Ordinance for approval as a responsible officer, per Type of regulated activity	2,950
(11) Fee payable on application by a licensed corporation under section 126 of the Ordinance to vary the regulated activity specified in the applicant's licence for any one additional Type of regulated activity, other than Type 3 regulated activity	4,750

**Proposed new fee**

\$

(12) Fee payable on application by a licensed corporation under section 126 of the Ordinance to vary the regulated activity specified in the applicant's licence for additional of Type 3 regulated activity	129,730
(13) Fee payable on application by a licensed corporation under section 126 of the Ordinance to vary the regulated activity specified in the applicant's licence for the reduction of regulated activity/activities [except for the last activity/activities]	200
(14) Fee payable on application by a licensed representative under section 126 of the Ordinance to vary the regulated activity specified in the applicant's licence for any one additional Type of regulated activity, other than Type 3 regulated activity	1,790
(15) Fee payable on application by a licensed representative under section 126 of the Ordinance to vary the regulated activity specified in the applicant's licence for additional of Type 3 regulated activity	2,420
(16) Fee payable on application by a licensed representative under section 126 of the Ordinance to vary the regulated activity specified in the applicant's licence for the reduction of regulated activity/activities [except for the last activity/activities]	200
(17) Fee payable on application by a licensed corporation or licensed representative for amendment of the applicant's licence	200

**Annual Fees for Licensed Persons**

(18) Annual fee payable under section 135(1) of the Ordinance by a corporation licensed under section 115 of the Ordinance, per Type of regulated activity for which it is licensed, other than Type 3 regulated activity	4,750
(19) Annual fee payable under section 135(1) of the Ordinance by an individual licensed under section 119 of the Ordinance, per Type of regulated activity for which he is licensed, other than Type 3 regulated activity	1,790
(20) Annual fee payable under section 135(1) of the Ordinance by an individual licensed under section 119 of the Ordinance and approved under section 125 (1) of the Ordinance as a responsible officer, per Type of regulated activity for which he is licensed, other than Type 3 regulated activity	4,750
(21) Annual fee payable under section 135(1) of the Ordinance by a corporation licensed under section 115 of the Ordinance for Type 3 regulated activity	129,730
(22) Annual fee payable under section 135(1) of the Ordinance by an individual licensed under section 119 of the Ordinance for Type 3 regulated activity	2,420



**Proposed new fee**

\$

(23) Annual fee payable under section 135(1) of the Ordinance by an individual licensed under section 119 of the Ordinance and approved under section 125(1) of the Ordinance as a responsible officer for Type 3 regulated activity 5,380

**Fees for Registered Institutions**

(24) Fee payable on application by an authorized financial institution under section 118 of the Ordinance for registration as a registered institution to carry on any one Type, and per additional Type, of regulated activity 23,500

(25) Annual fee payable under section 135(1) of the Ordinance by a registered institution, per Type of regulated activity 35,000

(26) Fee payable on application by a registered institution under section 126 of the Ordinance to vary the regulated activity specified in the applicant's certificate for any one additional Type of regulated activity 23,500

(27) Fee payable on application by a registered institution under section 126 of the Ordinance to vary the regulated activity specified in the certificate of registration for the reduction of regulated activity/activities [except for the last activity/activities] 200

(28) Fee payable on application by a registered institution for amendment of the certificate of registration 200

**Miscellaneous Fees**

(29) Fee payable on application under section 129 of the Ordinance for approval of premises, or alternative premises, for keeping records or documents required under the Ordinance 1,000

(30) Fee payable on application under section 130A(1) of the Ordinance for approval to become or continue to be substantial shareholder(s) of a corporation licensed under section 115 of the Ordinance 3,000

(31) Fee payable on application under section 131(1) of the Ordinance for a waiver or modification in respect of -

(a) any condition specified in section 117 of the Ordinance or imposed under sections 115, 116, 118, 119, 120, 120(2)(a), 125 or 130A of the Ordinance 2,000

(b) sections 115(2)(b) and 124(1) and (2) of the Ordinance 2,000

(c) sections 115(2)(c) and 129 of the Ordinance 2,000

(d) section 128 of the Ordinance 4,000

(32) Fee payable on application under section 123(1) of the Ordinance for a duplicate licence or certificate of registration 200

**Proposed new fee**

\$

(33) Fee payable on application by a licensed corporation or an associated entity of a licensed corporation -	
(a) under section 151(3)(a) of the Ordinance, for approval to alter its financial year end	2,000
(b) under section 151(3)(b) of the Ordinance, for approval to adopt a period exceeding 12 months as its financial year	2,000
(c) for approval of the matters specified in paragraphs (a) and (b) on the same occasion	2,000
(d) under section 152(4) of the Ordinance for extension of the period within which to lodge the requisite documents	2,000
(34) Fee payable for certificate of a copy of a document as a true copy	200
(35) Fee payable to obtain under section 133(5)(b) a copy of an entry in, or extract of, the register	9 per page
(36) Fee payable for a copy of a document for which no fee is otherwise specified in this Schedule	9 per page
(37) Fee payable by a licensed corporation or registered institution requesting the Commission to issue a confirmation letter to an authority or regulatory organization which performs a function similar to the Commission	2,000
(38) Fee payable by any person requesting the Commission to issue a confirmation letter to another person (other than an authority or regulatory organization which performs a function similar to the Commission) in relation to a person's licensing status with the Commission	200



SECURITIES AND  
FUTURES COMMISSION  
證券及期貨事務監察委員會

Annex 3

## Consultation Conclusions on the Proposed Licensing Fees under the Securities and Futures (Fees) Rules

Hong Kong  
July 2002

香港  
2002年7月

## **Introduction**

1. On 8 March 2002, the Securities and Futures Commission (“SFC”) issued a Consultation Document to solicit comments on the Proposed Licensing Fees under the Securities and Futures (Fees) Rules (“the Fees Rules”).
2. The consultation period lasted until 8 April 2002.
3. The purpose of this document is to summarize the major comments and enquiries received during the consultation period and the SFC’s responses.
4. It is advisable to read this document in conjunction with the Consultation Document.

## **Public Consultation**

5. In addition to the public announcement inviting comments, the SFC distributed the Consultation Document to all licensed intermediaries using the FinNet communication network. The Document was also published on the SFC website.
6. On 2 April 2002, the SFC held an information session to brief about 200 industry practitioners on the Proposed Licensing Fees.
7. A total of three submissions were received. One was submitted collectively by a group of five international brokerage firms<sup>1</sup> through their solicitors. The other two were submitted by Hong Kong Stockbrokers Association Limited and the Hong Kong Association of Banks. These submissions are published on the SFC website.
8. Apart from written submissions, the SFC also received verbal comments at the information session held on 2 April 2002.

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<sup>1</sup> Deutsche Securities Asia Limited, Goldman Sachs (Asia) L.L.C., Merrill Lynch (Asia Pacific) Limited, Morgan Stanley Dean Witter Asia Limited and Salomon Smith Barney Hong Kong Limited.

## **Summary of Comments and Enquiries and the SFC's Responses**

9. Respondents generally welcomed the SFC's proposal to reduce licensing fees. In their submissions, they mainly sought clarification on issues concerning the need to be licensed for a particular regulated activity under specific circumstances after the new licensing regime commences. Some respondents also suggested that more fee waivers should be provided in the Fees Rules.
10. A summary of the comments and enquiries received and the SFC's responses are set out as at **Attachment**.

## **Consultation Conclusions**

11. Having taken into consideration the comments received, the SFC decided to adopt the fees as proposed in the Consultation Document except for two fees payable for the issuance of confirmation letters by the SFC in relation to a person's licensing status or other relevant matters. On reflection, the SFC considers it not necessary to prescribe any fees for the two items (i.e. items (37) and (38) of the Proposed Licensing Fee Schedule) as originally proposed.
12. Certain additional fee waivers will be included in the Fees Rules so that during the transitional period, existing licensees or exempt persons will not incur extra licensing costs over and above the amounts they are currently required to pay under the existing regime. These additional fee waivers are detailed as follows.

### **Application fees for migration waived**

13. During the two-year transitional period immediately after the commencement of the Securities and Futures Ordinance ("the SFO"), existing licensees and exempt persons are deemed to be licensed for regulated activities they are already registered for or exempt from registration under the existing regime. In order to continue such regulated activities after the transitional period, they will need to apply to the SFC for licence or registration, as the case may be, under the new regime before the transitional period ends. In this connection, it is proposed that no fees will be levied on those applications submitted

solely for the purpose of migration.

14. The above arrangement is aimed to ensure that existing licensees and exempt persons will not be worse off when migrating to the new regime. They are, however, still obliged to pay the on-going annual fees as prescribed in the Fees Rules in accordance with section 138(1) of the SFO.
15. As proposed in the Consultation Document, in order to encourage existing licensees and exempt persons to submit their applications for migration early, if such applications are submitted within the first year of the transitional period, a 5% discount on the applicants' annual fees (based on current fees scale) payable from the date of application submission till the end of the transitional period will be offered.
16. For instance, assuming that the transitional period commences 1 January 2003, if an existing securities dealer whose registration anniversary date is the 1<sup>st</sup> of July in each year submits his application for migration on 1 April 2003, a 5% discount on the annual fee payable for the period from 1 April 2003 to 31 December 2004 will be offered to him. To this end, an amount equivalent to 5% of the pro-rata annual fee payable for the period from 1 April 2003 to 30 June 2003 will be deducted in calculating the next annual fee payable by this dealer. For the period from 1 July 2003 to 31 December 2004, together with the 3% reduction in annual fee proposed in the Consultation Document, this dealer can enjoy a total of 8% reduction in annual fee as compared with the existing fee level. All relevant fee discounts entitled by this dealer as a result of his early submission of application for migration will be reflected by corresponding reduction in the forthcoming annual fee payable by him.

**Fees payable by exempt persons maintained at current levels during transitional period**

17. For the purpose of migration, exempt persons which are authorized financial institutions can apply to become registered institutions under the new regime. As proposed in the Consultation Document, a higher annual fee will be charged against a registered institution as compared to the existing fee level applicable to an exempt person.
18. As for exempt persons which are not authorized financial institutions, they

will need to apply to become licensed corporations under the new regime. By so doing, they may incur higher overall costs having regard to the licensing requirements imposed on their staff as opposed to none under the current regime.

19. In view of the aforesaid, it is proposed that during the transitional period, the annual fees payable by exempt persons will be at the levels applicable to them under the current regime. The early-bird discount on annual fees as mentioned in paragraph 15 will also be applicable.

20. Furthermore, if an exempt person, not being an authorized financial institution, applies to become a licensed corporation, the application and annual fees payable in relation to its staff accredited to the corporation will be waived during the transitional period. This is proposed because they are currently not subject to any fee under the existing regime.

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**Application and annual fees waived for certain licensed banks**

21. According to the current legislation, licensed banks are exempted from the registration requirement if they carry out investment advisory activities concerning securities. However, under the new licensing regime, licensed banks will have to apply to become registered institutions if they intend to carry out such regulated activity after the transitional period.

22. In adopting the “no worse off” principle, it is proposed that during the transitional period, if a licensed bank applies to become a registered institution in respect of the relevant regulated activity<sup>2</sup> which it has been carrying out without the necessity of any registration requirement under the current regime, the related application fee as prescribed in the Fees Rules will be waived.

23. In addition, during the transitional period, where a licensed bank is or was deemed to have been registered under section 119(1) of the Ordinance in accordance with section 32 of Schedule 10 to the Ordinance, the annual fee payable by that registered institution shall be waived.

24. This fee waiver will have the effect that the licensed bank concerned will not

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<sup>2</sup> Type 4, Type 6 and/or Type 9 regulated activity as defined in Schedule 5 to the SFO.

be required to pay any fee in respect of its carrying out of the relevant regulated activity during the transitional period. Following approval of the application, the licensed bank concerned will have to pay the annual fee for the period from the date immediately after the transitional period to the following registration anniversary date.

**Fee payable for amendment of licence/certificate of registration**

25. The SFC confirms that the fee payable for amendment of licence/certificate of registration (i.e. items (17) and (28) of the Proposed Licensing Fee Schedule) will be applicable only if the amendment does not result from any other application which is subject to separate payment of fee specified in the Fees Rules, e.g. application for variation of regulated activities, transfer of accreditation or approval of responsible officer.
26. The interpretation in paragraph 25 will be valid during as well as after the transitional period.

**Final Note**

27. The SFC would like to thank all industry practitioners and interested persons who have made valuable suggestions and comments in response to the Consultation Document.
28. The proposed licensing fees will form part of the draft Securities and Futures (Fees) Rules which will be released for public consultation shortly.

**Securities and Futures Commission  
July 2002**



## Summary of comments/enquiries received on the Proposed Licensing Fees under the Securities and Futures (Fees) Rules

	Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)	Details of the Fee	Respondent's Comments/Enquiries	SFC's Response
<i>Regulated activities conducted "wholly incidental" to dealing in securities / futures contracts</i>				
(1)	-	-	<p>Hong Kong Stockbrokers Association Limited ("HKSA") seeks confirmation as to whether an existing broker dealer will be able to carry out the following regulated activities without incurring additional licensing costs as compared to the current regime:</p> <p>(i) Type 1: dealing in securities;</p> <p>(ii) Type 4: advising on securities;</p> <p>(iii) Type 7: providing automated trading services ("ATS");</p>	<p>A stockbroker needs to be licensed for Type 1 regulated activity in order to deal in securities. This resembles the registration as a Securities Dealer under the current regime.</p> <p>As defined in Schedule 5 to the Securities and Futures Ordinance ("SFO"), "advising on securities" does not include such advice as provided by a person who is licensed for Type 1 and gives such advice wholly incidental to the carrying on of Type 1 regulated activity. Under such circumstances, a licence for Type 4 would generally not be necessary for a stockbroker.</p> <p>For a stockbroker who conducts securities dealing through the Internet, it needs a licence for both Type 1 and Type 7 regulated activities. In this regard, the SFC considers that such Type 7 regulated activity is an integral part the stockbroker's securities dealing business and that levying separate licensing fees on Type 7 regulated activity would not be necessary.</p>

	Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)	Details of the Fee	Respondent's Comments/Enquiries	SFC's Response
			<p>(iv) Type 8: securities margin financing; and</p> <p>(v) Type 9: asset management.</p> <p>HKSA also seeks the SFC's confirmation as to whether existing registered individuals will be able to provide the activities mentioned above without incurring extra costs under the new regime.</p>	<p>The definition of "securities margin financing" in Schedule 5 to the SFO does not include the provision of financial accommodation by a person who is licensed for Type 1 regulated activity. Type 8 is thus not required for persons already licensed for Type 1.</p> <p>According to the definition of "asset management", brokers are not required to be licensed for Type 9 regulated activity so long as such services provided are wholly incidental to their carrying on Type 1 or Type 2 regulated activity.</p> <p>The SFC confirms that an existing stockbroker who:</p> <ul style="list-style-type: none"> <li>• carries out dealing in securities through the Internet;</li> <li>• advises on securities and provides asset management services wholly incidental to its dealing business; and</li> <li>• carries out securities margin financing</li> </ul> <p>will require a licence for Type 1 and Type 7 regulated activities under the new regime. However, the fees in relation to Type 7 will be waived. As such, only the fees for Type 1 will become payable and the stockbroker will not incur extra costs when compared with the existing regime.</p> <p>The above analysis also applies to individuals licensed as the broker's representatives.</p>

	Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)	Details of the Fee	Respondent's Comments/Enquiries	SFC's Response
(2)	-	-	<p>Linklaters asks for clarification as to which types of regulated activities are required under the following scenarios:</p> <p>(i) Portfolio managers who are also involved in promoting funds to clients. Need Type 1 and Type 9?</p> <p>(ii) Sales staff who provide advice to clients, and/or are granted discretionary authority by some of his clients. Need Type 1, Type 2 and Type 9?</p> <p>(iii) Corporate finance professionals who also advise on capital raising by way of private placement. Need Type 1, Type 4 and Type 6?</p> <p>(iv) Research analysts who solicit interest in a particular stock without going so far as to take the order. Need Type 1 and Type 4?</p>	<p>Portfolio managers in this scenario will be required to be licensed for Type 1 and Type 9 regulated activities. Type 1 is necessary because they induce other persons to deal in securities by promoting funds. It is no different from the current regime as to whether a person is required to be registered as a dealer.</p> <p>In this scenario, where the provision of asset management services are carried out incidental to dealing in securities and/or futures contracts, the sales staff are only required to be licensed for Type 1 and/or Type 2 regulated activity.</p> <p>In this scenario, advising on capital raising involves giving advice concerning compliance with or in respect of rules governing the listing of securities and/or the relevant code published by the SFC. Therefore, a licence for Type 6 regulated activity is required.</p> <p>Type 1 regulated activity is also necessary if the individuals concerned induce others to acquire the shares of public companies by way of private placement or otherwise. However, they may not be required to be licensed for Type 4 regulated activity if such advisory services are provided wholly incidental to their Type 1 regulated activity.</p> <p>In general, research analysts are required to be licensed for Type 4 regulated activity. In this scenario, they are also required to be licensed for Type 1 regulated activity due to their involvement in soliciting (or inducing) others to deal in securities.</p>

	Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)	Details of the Fee	Respondent's Comments/Enquiries	SFC's Response
<i>Provision of automatic trading services</i>				
(3)	-	-	HKSA comments that the definition of Type 7 regulated activity (i.e. providing ATS) is too wide in the SFO. As it currently stands, it can apply to brokers who provide Internet trading, software houses selling trading systems as well as Electronic Communication Networks ("ECNs"). It considers that Internet trading is just another way for receiving trade orders that is no different from the current telephone system, and believes that it should not be subject to separate licensing requirement.	<p>The SFO provides that where a stockbroker provides ATS in the form of Internet trading, it has to be licensed for Type 1 and Type 7 regulated activities.</p> <p>Although Type 7 relating to Internet broking is generally considered to form a part of the stockbroking activity (as reflected by the proposal to waive licensing fees in relation to Type 7), the SFC is of the view that Type 7 regulated activity has to be licensed separately because such activity normally calls for additional consideration on specific areas in respect of system integrity and controls, security measures and contingency issues.</p>
(4)	-	-	<p>Linklaters comments that it is unclear when a securities dealer or futures dealer needs to apply for a licence to provide ATS (Type 7)?</p> <p>Although there is no fee implication, it may be very significant in respect of on-going training and competence requirements for dealing staff.</p>	<p>The term "providing ATS" is defined in Schedule 5 to the SFO. For example, a dealer who conducts dealing activities through the Internet needs to be licensed for Type 7 regulated activity.</p> <p>In February 2002, the SFC published the "Guidelines for the Regulation of Automatic Trading Services". The approach in regulating this type of regulated activity is set out in these Guidelines.</p> <p>The SFC is aware of this concern and is currently developing new guidelines relating to competence and training to address the issue. Meanwhile, no additional requirement, whether in terms of fee, competence or on-going training, will be imposed in this regard as compared to the current regime during the transitional period.</p>

	Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)	Details of the Fee	Respondent's Comments/Enquiries	SFC's Response
(5)	-	-	Hon. Henry WU comments that to be fair to all intermediaries, Internet brokers should pay licensing fees in relation to Type 7 regulated activity whilst the licensing fees for brokers not providing ATS should be reduced to reflect the cost of regulating ATS. He views that related regulatory cost should not be borne by those intermediaries not providing ATS.	As noted in (1)(iii) above, securities or futures dealing through the Internet is regarded as a part of the overall dealing business of a licensee. It is therefore inappropriate to identify specific activity (in this case Internet trading) within a regulated activity (Type 1 or Type 2) for the purposes of levying licensing fees. As in the current regime, the SFC does not intend to impose separate fees for different products or channels of service delivery in respect of the same business activity.
<b><i>Asset management</i></b>				
(6)	-	-	<p>HKSA submits that while brokers managing discretionary accounts are asset management functions, it does not believe that the SFC intends to license brokers separately in this regard.</p> <p>It also believes that Type 9 is more applicable to fund management companies that manage funds sold by public subscription.</p>	<p>Yes. Stockbrokers who manage discretionary accounts for clients incidental to their carrying on of dealing in securities are only required to be licensed for Type 1 regulated activity.</p> <p>This is generally an accurate observation.</p>
<b><i>Responsible officers</i></b>				
(7)	-	-	HKSA seeks confirmation as to whether the same "responsible officer" will be allowed to be appointed for several regulated activities under the new regime.	The SFC confirms that the same individual can be licensed as a responsible officer for one or more regulated activities as long as he can satisfy the SFC that he is fit and proper to be so licensed and there is no conflict of interest for him to carry out the regulated activities concerned at the same time.
(8)	-	-	HKSA comments that if a "responsible officer" needs to be licensed in several activities, the total costs should not be more than under the current system of registration.	As noted in (1) above, the SFC envisages that in general, responsible officers of stockbroker firms will incur licensing costs in relation to only one type of regulated activity (i.e. Type 1).

	Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)	Details of the Fee	Respondent's Comments/Enquiries	SFC's Response
				<p>In adopting the “no worse off” principle, where an existing registered person applies for a new licence in respect of such regulated activities for which he is deemed to have been licensed pursuant to Schedule 10 to the SFO, the annual fee to be payable by that person during the transitional period will be based on:</p> <p>(a) the number of licence(s) that he holds under the current regime immediately before commencement of the SFO; or</p> <p>(b) the number of regulated activity type(s) that he is licensed for under the SFO,</p> <p>whichever is less.</p>
(9)	-	-	<p>Linklaters comments that the requirement to appoint at least two responsible officers for each regulated activity appear to result in a multiplicity of fee payments because:</p> <p>(i) under the SFO, each responsible officer will also need to be a licensed representative of the licensed corporation. Two application fees, and two annual fees each year, therefore appear to be payable, even if only a single regulated activity is involved.</p>	<p>Fees payable for a responsible officer include the part of licensing as a representative (\$1,790) and the part of approval as a responsible officer (\$2,950). The total of \$4,740 (i.e. \$1,790 + \$2,950) is less than the existing application or annual fee payable for dealing/supervisory director amounting to \$4,900.</p> <p>The necessity to have at least 2 responsible officers for each type of regulated activity is provided by the legislation. It is noted that most corporate registrants under the current regime have appointed two or more dealing/supervisory directors for carrying out registrable activities. So, in effect they are no worse off under the new regime.</p> <p>Existing sole proprietors and certain corporations which have only one dealing/supervisory director may be affected by the new requirement. In this regard, the fee waiver proposed in respect of the additional responsible officer applicable during the transitional period will provide the necessary fee relief to the licensees concerned.</p>

	Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)	Details of the Fee	Respondent's Comments/Enquiries	SFC's Response
			(ii) Assuming that an individual is to be a responsible officer/licensed representative in respect of more than one type of regulated activity, it appears that a separate application fee and annual fee will be payable in respect of each type of regulated activity.	This is no different from the current regime in the sense that an existing registrant needs to pay application and annual fees in respect of different registrable activities, e.g. securities dealing and commodities trading.
(10)	-	-	<p>Linklaters comments that there may be increase in licensing costs because:</p> <p>(i) two responsible officers will be required in respect of each regulated activity;</p> <p>(ii) a person can become a responsible officer without being an executive director. It is thus likely that quite a large number of individuals who are not currently registered as “dealing directors” or “investment advisers” will apply to become responsible officers;</p> <p>(iii) some people who are already registered as a “dealing director” or “investment adviser” will need to become responsible officers in respect of more than one type of regulated activity.</p>	<p>See (7) and (9)(i) above.</p> <p>The person must, however, satisfy the SFC that he is fit and proper and has sufficient authority within the licensed corporation before he can become a responsible officer. In addition, so long as section 125(1) of the SFO is complied with, it is up to a licensed corporation's own decision as to whether a licensed representative of the corporation who is not an executive director will apply for approval as an responsible officer.</p> <p>As mentioned in (1), in principle, a person licensed for Type 1 regulated activity can carry out Type 4, Type 6 and/or Type 9 regulated activity without the necessity to be licensed for those latter activities if they are carried out incidental to Type 1.</p> <p>Whilst it appears that an “investment adviser” may need to be licensed for multiple regulated activities (i.e. Types 4, 6 and 9) under the new regime, in reality it is unlikely that the same individual will seek to be licensed for all 3 types of regulated activities in view of the specialized expertise required for each type of activities and the potential conflict of interest that may arise should such activities be conducted by the same individual at the same time, say carrying out Types 6 and 9 simultaneously.</p>

	Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)	Details of the Fee	Respondent's Comments/Enquiries	SFC's Response
			Linklaters suggests a waiver of fees in respect of applications made during the transitional period for persons becoming "responsible officers", whether for one or several regulated activities.	In adopting the "no worse off" principle, the SFC has already proposed the necessary fee waiver to relieve financially the affected licensees during the transitional period, e.g. the waiver mentioned in (9)(i) above.
<b><i>Transitional arrangement</i></b>				
(11)	-	-	<p>Linklaters considers that the application process for existing licensed persons to migrate to the new regime should be streamlined and simplified, and that existing licensed persons will effectively be "grandfathered" to the new regime.</p> <p>The respondents also comment that an existing licensed person may incur additional cost if he needs to pay an application fee for migration to the new regime in addition to the on-going annual fee.</p>	<p>The SFC is aware of the concerns about transitional arrangements and will endeavor to make the process of migration to the new regime as simple as possible. A detailed transitional guideline will be issued around September 2002 to assist intermediaries in this regard.</p> <p>The SFC notes that existing intermediaries will be largely "grandfathered" to the new regime as provided by the SFO in granting deemed licences or registrations during the transitional period.</p> <p>The SFC is fully aware of this concern and proposes that all fees payable for applications which are submitted solely for migration purposes will be waived. This is to ensure that during the transitional period, existing licensees and exempt persons will not incur extra licensing costs over and above the amounts they are required to pay under the current regime.</p>







	Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)	Details of the Fee	Respondent's Comments/Enquiries	SFC's Response
			Linklaters accepts that, if an application is subsequently made for additional accreditation, a fee should be payable. In this regard, they also seek confirmation as to whether the fee set out in item (8) of the Schedule is only payable once, irrespective of the number of licensed activities which the representative will be accredited to conduct for the additional licensed corporation in respect of which accreditation is sought.	Yes. See above.
(15)	Item 17  Item 28	Fee payable on application by a licensed corporation or licensed representative for amendment of the applicant's licence (\$200)  Fee payable on application by a registered institution for amendment of the certificate of registration (\$200)	Linklaters seeks clarification as to whether the fee set out in item (17) of the Schedule applies only where a licence is being amended for something like a change of name of the licensed person, and that this fee does not apply (as an addition to the fees otherwise specified in the Schedule) where an application is made for variation of the regulated activities specified in a licence.	Yes. Item (17) of the Schedule will be applicable only if the amendment does not result from any other application which is subject to separate payment of fee specified in the Fees Rules, e.g. application for variation of regulated activities, transfer of accreditation or approval of responsible officer.  The same interpretation also applies to amendments to certificates of registration under item (28) of the Schedule.

	<b>Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)</b>	<b>Details of the Fee</b>	<b>Respondent's Comments/Enquiries</b>	<b>SFC's Response</b>
(16)	Item 25	Annual fee payable under section 138(1) of the SFO by a registered institution, per Type of regulated activity (\$35,000)	<p>The Hong Kong Association of Banks is concerned about the possibility of double-charging banks in relation to the supervision of their securities business by both the SFC and the Hong Kong Monetary Authority (“HKMA”).</p> <p>It also comments that the moderate increase in fees for Registered Institutions is not specifically mentioned and accounted for.</p>	<p>The HKMA has confirmed that it does not intend to charge banks for supervising their securities business on top of the fees proposed by the SFC.</p> <p>The increase in annual fees for registered institutions reflects the enhanced regulatory oversight and effort by the HKMA. In this regard, the fees collected by the SFC will be shared with the HKMA.</p>
(17)	Item 29	Fee payable on application under section 130 of the SFO for approval of premises, or alternative premises, for keeping records or documents required under the SFO (\$1,000)	Linklaters seeks clarification on the scope of section 130 of the SFO. They note that “in the past, SFC officers have suggested that where records are maintained in computerized form, with the data center (and/or back-up facilities) being located somewhere other than the premises of the SFC licensed person, the data center or back-up facility needs to be approved by the SFC as being a place at which records of the business are kept (even though the records can be accessed on-screen at the registered person’s premises in Hong Kong)”.	This is correct.

## List of Respondents

Date received	Respondent
2 April 2002	Hon. Henry WU
4 April 2002	The Hong Kong Association of Banks
8 April 2002	Linklaters (on behalf of Deutsche Securities Asia Limited, Goldman Sachs (Asia) L.L.C., Merrill Lynch (Asia Pacific) Limited, Morgan Stanley Dean Witter Asia Limited and Salomon Smith Barney Hong Kong Limited)
10 April 2002	Hong Kong Stockbrokers Association Limited



SECURITIES AND  
FUTURES COMMISSION  
證券及期貨事務監察委員會

## A Consultation Paper on the Securities and Futures (Fees) Rules

### 《證券及期貨(費用)規則》諮詢文件

Hong Kong  
July 2002

香港  
2002年7月

## Consultation

This consultation document invites public comments on the draft Securities and Futures (Fees) Rules (the “draft Rules”). The Securities and Futures Commission (“SFC”) proposes to recommend to the Chief Executive in Council under section 395 of the Securities and Futures Ordinance (No. 5 of 2002) (the “Ordinance”) to make the draft Rules when it commences.

### Introduction

1. Under section 395 of the Ordinance, the Chief Executive in Council is empowered to:
  - (a) require and provide for payment of fees to the SFC and to prescribe fees—
    - i. for an application to the SFC under or pursuant to any of the relevant provisions;
    - ii. for anything done by the SFC or one of its committees in the performance of a function relating to takeovers and mergers or to share repurchases;
    - iii. for anything done by the SFC or one of its committees or the Monetary Authority in the performance of a function under any of the relevant provisions (other than the function referred to in (ii) above);
    - iv. for any other matter with regard to which provision is made by or under any of the relevant provisions;
  - (b) provide for payment to the SFC of fees and prescribe fees which the Ordinance provides are, or may be prescribed, specified or provided for by rules made under this section.
2. There are controls built into the legislative system, whereby any rules made by the Chief Executive in Council must be subject to negative vetting by the Legislative Council. The SFC now releases the draft Rules (see Attachment 1) for public consultation before recommending the Chief Executive in Council to make the rules under section 395 of the Ordinance.
3. The SFC has sent copies of this Consultation Document to all licensed intermediaries using the FinNet communication network. The public may obtain copies of the consultation document and the attachment free of charge at the SFC’s office and on the SFC’s Internet website at <http://www.hksfc.org.hk>.
4. The SFC invites the public to submit comments **no later than 24 August 2002**.

5. This consultation paper should be read in conjunction with the Consultation Document on Proposed Licensing Fees under the Securities and Futures (Fees) Rules which was released in March 2002 and the Consultation Conclusion on Proposed Licensing Fees under the Securities and Futures (Fees) Rules which was released in July 2002 as they set out the proposed licensing fees under the new licensing regime. The documents relating to the proposed licensing fees may be viewed on the SFC's Internet website at <http://www.hksfc.org.hk> .

### **Background and the Draft Rules**

6. All fees and charges payable to the SFC will be specified in the Rules. A copy of the draft Rules is attached (see Attachment 1). A table comparing the proposed fees under the draft Rules and the fees currently charged is also attached (see Attachment 2).
7. The draft Rules have been prepared having regard to the existing Securities and Futures Commission (Fees) Rules (the "existing Rules") which are made under section 54 of the Securities and Futures Commission Ordinance.

### ***Fees in respect of corporate finance matters***

8. No new policy initiatives or changes to fees in respect of corporate finance matters have been made in the draft Rules. The fees in respect of corporate finance matters appear in Part III of the draft Rules, Schedule 1 (in the part entitled "Fees under the Companies Ordinance (Cap.32)") and Schedule 2 to the draft Rules and are based on the fees charged under the existing Rules. Part III of the draft Rules contains minor amendments which are intended to clarify existing practice under the existing Rules and the Codes on Takeovers and Mergers and Share Repurchases.

### ***Fees relating to the disclosure of interests***

9. Part XV of the Ordinance sets out requirements in respect of disclosure of interests. The fee payable for exemption under section 309 of the Ordinance is the same fee as is payable under section 2A of the Securities (Disclosure of Interests) Ordinance (Cap. 396) which has remained fixed for over 10 years. One new fee has been added. This fee relates to the approval of persons as approved lending agents under the provisions of the Securities and Futures (Disclosure of Interests – Stock Borrowing and Lending) Rules. The fee payable on application is fixed at the same level as the fees payable for exemption under section 309 of the Ordinance as the work involved in approving applications is thought to be of a similar order.

### ***Fees in respect of requirements applicable to intermediaries***

10. The fees proposed for granting modifications, waivers, approvals and recognition for the purposes of the different sets of rules setting out requirements in respect of capital, client assets, records and audit for intermediaries are contained in Schedule 1 to the Rules in:-
  - (a) item 43 (e) to (j) and item 44 under Miscellaneous Fees; and
  - (b) the part entitled "Fees under Part VI of the Ordinance" .



There are hardly any new policy initiatives as the fees proposed generally seek to standardize the fee scale under the existing Rules which ranges from \$4,500 to \$8,000. The only exception is that since these requirements will now also apply to associated entities of intermediaries, associated entities will need to pay these fees as well upon making an application for modification, etc.

### *Fees in respect of investment products*

11. With the adoption of a single notion of “collective investment scheme” in Part IV of the Ordinance, the policy intention is to streamline and rationalize the fee structures for all collective investment schemes. The intention is to ensure that there is a level playing field for all collective investment schemes in respect of the fees required to be paid to the SFC regardless of whether they are structured in the form of a trust, corporation or policy contract. Further details of the proposed changes as well as the background leading to this proposal are set out below.
12. Part IV of the Ordinance deals with the regulatory framework for offers of investments. It contains a general prohibition on the issue to the public of advertisements, invitations and documents relating to a wide range of investments. These investments mainly fall into a category described as “collective investment schemes”.
13. A breach of this general prohibition is an offence, but the prohibition is subject to a number of exemptions. One important exemption is related to the issue of advertisements, invitations and documents that is authorized by the SFC under section 105 of the Ordinance.
14. Apart from authorizing the issue of advertisements, invitations and documents, section 104 of the Ordinance also empowers the SFC to authorize the collective investment schemes themselves.
15. There are fees payable to the SFC in relation to the authorization under sections 104 and 105 of the Ordinance. These fees are set out in the draft Rules (see “Fees Under Part IV of the Ordinance” in Schedule 1 to the draft Rules) having regard to the matters contained in the existing Rules.
16. It is worth noting, however, that the fee descriptions in the existing Rules do not focus on the investments themselves, but on the question of whether the authorization power of the SFC is exercised under the Securities Ordinance (Cap. 333) or the Protection of Investors Ordinance (Cap. 335). Such descriptions have caused some confusion to market participants in the past and created different fee structures for investments that are subject to the Securities Ordinance, such as unit trusts and mutual fund corporations, and those subject to the Protection of Investors Ordinance, such as investment-linked assurance schemes and MPF schemes. The overall effect under the existing Rules is that while the underlying funds of unit trusts and mutual fund corporations are, to a certain extent, treated as separate investments and thus subject to additional fees, sponsors of investment-linked assurance schemes and MPF schemes do not need to pay any fees for their underlying funds. Although these investments are structured differently, they are, to a large extent, functionally similar in nature.

17. Accordingly, the SFC is proposing to streamline and rationalize the fee structures for all collective investment schemes regardless of whether they are structured in the form of a trust, corporation or policy contract. The proposed fees are contained in Schedule 1 to the draft Rules under “Fees Under Part IV of the Ordinance”.
18. No proposal is made to change the fee levels as set out in the existing Rules. It is, however, envisaged that certain schemes the documentation for which are currently authorized under the Protection of Investors Ordinance as mentioned above may end up paying higher aggregate fees under the draft Rules as their underlying funds would also be subject to certain fees as in the case of unit trusts and mutual fund corporations authorized under the Securities Ordinance.
19. With a view to minimizing the potential impact on scheme sponsors and reducing their regulatory costs, we intend not to charge for those underlying funds of a collective investment scheme which are already maintained by, or within, another authorized scheme.
20. As an illustration, Company A has submitted an application for authorization of an investment-linked assurance scheme within which there are four underlying funds. According to the draft Rules, Company A is required to pay an application fee for the scheme as well as the four underlying funds which is equal to \$40,000 plus \$5,000 times four. Upon authorization, Company A is also required to pay an authorization fee equal to \$20,000 plus \$2,500 times four and an annual fee equal to \$7,500 plus \$4,500 times four. However, if Company A later submits an application for authorization of another investment-linked assurance scheme with the same underlying funds, it would only need to pay an application fee of \$40,000, an authorization fee of \$20,000 and an annual fee of \$7,500. It would not need to pay any additional fees in relation to the four underlying funds of the new scheme.

### ***Fees in respect of licensing***

21. As mentioned above, the public was consulted in March/April 2002 on the proposed licensing fees and related policy initiatives for the Securities and Futures (Fees) Rules. In the Consultation Conclusions on Proposed Licensing Fees under the Securities and Futures (Fees) Rules, the SFC stated that it would adopt almost all of the fees proposed in Consultation Document on Proposed Licensing Fees, although certain additional fee waivers would be added to the Rules so that, during the transitional period, existing licensees or exempt persons would not incur extra licensing costs over and above the amounts that they are currently required to pay under the existing regime. The draft Rules give effect to the conclusions regarding the proposed licensing fees in section 12(2) and (3) (waiver of fees), section 13 (transitional), Schedule 1 (in the part entitled “Fees under Part V of the Ordinance”) and Schedules 3 and 4 (further transitional provisions).
22. As the draft Rules only seek to implement the outcome of the consultation on the licensing fees, comments are not being solicited on the level of the fees (except for items 43(e)-(j) and 44 of Schedule 1 to the draft Rules) or the principles relating to the licensing fees provisions.

***Fees in respect of providing Automated Trading Services under Part III of the Ordinance***

23. Sections 95 to 101 in Part III of the Ordinance introduce the authorization of Automated Trading Services (ATS). In March 2001, the public was consulted on proposed guidelines on how ATS would be authorized or licensed and how they would be regulated. In February 2002, the consultation conclusions and the final Guidelines for the Regulation of Automated Trading Services (Guidelines) were published after taking into account the public's comments. These Guidelines set out the principles, procedures and standards in relation to the authorization, registration and licensing of persons by the SFC for provision of ATS. The application procedures and ongoing requirements for ATS are detailed in the Guidelines at Part F.
24. The fees as proposed at Schedule 1 of the Fees Rules, cover the cost of processing an application for authorization to provide ATS as well as the ongoing costs of maintaining the authorization under section 95(2)(a) of the Ordinance. The fees cover all the costs for authorization; separate registration (and the payment of the associated fees) for the responsible persons of an ATS will not be necessary. Upon the commencement of the Ordinance, existing approved overseas exchanges that wish to continue to provide ATS in Hong Kong may need to be authorized as ATS providers under Part III of the Ordinance. Applicants for authorization will be required to pay the application fee and, once authorized, the ongoing annual fee. Any existing registered persons who wish to be authorized under Part III, instead of being registered under Part V of the Ordinance, may also apply.

**Other matters**

25. Please note that the names of the commentators and the contents of their submissions may be published on the SFC web site and in other documents to be published by the SFC. In this connection, please read the Personal Information Collection Statement attached to this consultation paper.
26. You may not wish your name to be published by the SFC. If this is the case, please state that you wish your name to be withheld from publication when you make your submission.
27. Written comments may be sent -

By mail to: SFC (Fees Rules)  
12/F, Edinburgh Tower  
The Landmark  
15 Queen's Road Central  
Hong Kong

By fax to: (852) 2293-5963

By on-line submission at: <http://www.hksfc.org.hk>

By e-mail to: [fees\\_rules@hksfc.org.hk](mailto:fees_rules@hksfc.org.hk)

28. The draft Rules should be read in conjunction with the Securities and Futures Ordinance itself.

## **Personal Information Collection Statement**

1. This Personal Information Collection Statement (“PICS”) is made in accordance with the guidelines issued by the Privacy Commissioner for Personal Data. The PICS sets out the purposes for which your Personal Data<sup>1</sup> will be used following collection, what you are agreeing to with respect to the SFC’s use of your Personal Data and your rights under the PDPO.

### **Purpose of Collection**

2. The Personal Data provided in your submission to the SFC in response to this Consultation Paper may be used by the SFC for one or more of the following purposes:
  - to administer the relevant Ordinances, rules, regulations, codes and guidelines
  - made or promulgated pursuant to the powers vested in the SFC
  - for the purposes of performing the SFC’s statutory functions under the relevant Ordinances
  - for research and statistical purposes
  - other purposes permitted by law

### **Transfer of Personal Data**

3. Personal Data may be disclosed by the SFC to the members of the public in Hong Kong and elsewhere, as part of the public consultation on the Consultation Paper. The names of persons who submit comments on the Consultation Paper together with the whole or part of their submission may be disclosed to members of the public. This will be done by publishing this information on the SFC web site and in documents to be published by the SFC throughout and at the conclusion of the consultation period.

### **Access to Data**

4. You have the right to request access to and correction of your Personal Data in accordance with the provisions of the PDPO. Your right of access includes the right to obtain a copy of your Personal Data provided in your submission on the Consultation Paper. The SFC has the right to charge a reasonable fee for processing any data access request.

### **Enquiries**

5. Any enquiries regarding the Personal Data provided in your submission on the Consultation Paper, or requests for access to Personal Data or correction of Personal Data, should be addressed in writing to:

The Data Privacy Officer  
The Securities and Futures Commission  
12/F, Edinburgh Tower, The Landmark  
15 Queen’s Road Central, Hong Kong

A copy of the Privacy Policy Statement adopted by the SFC is available upon request.

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<sup>1</sup> Personal Data means personal data as defined in the Personal Data (Privacy) Ordinance, Cap 486 (“PDPO”)

**SECURITIES AND FUTURES (FEES) RULES**

(Made by the Chief Executive in Council under section 395  
of the Securities and Futures Ordinance (5 of 2002)  
after consultation with the Securities and  
Futures Commission)

**PART I**

**PRELIMINARY**

**1. Commencement**

These Rules shall come into operation on the day on  
which Part XVI of the Securities and Futures Ordinance (5 of  
2002) comes into operation.

**PART II**

**APPLICATION FEES, ANNUAL FEES, ETC.**

**2. Fees**

The fees specified in these Rules shall be payable to  
the Commission.

**3. Date for payment of annual fees**

Where an annual fee is specified in Schedule 1 in  
relation to a collective investment scheme -

- (a) the first annual fee shall be payable on or

- before the date on which authorization under section 104 of the Ordinance takes effect; and
- (b) subsequent annual fees shall be payable on or before each successive anniversary of the date on which the authorization took effect.

#### **4. Non-payment of fees**

(1) Subject to section 11, where a fee specified in Schedule 1 is payable in respect of an application, the Commission may refuse to accept any such application which is not accompanied by the fee.

(2) Subject to section 11, where a fee specified in Schedule 1 is payable in respect of an authorization by the Commission, or in respect of an extension of any such authorization, the authorization or extension shall not take effect until the fee is paid.

(3) Where a fee specified in Schedule 1 is payable in respect of any other matter, the Commission may refuse to deal with the matter until the fee is paid.

(4) Subject to section 11, where an annual fee is specified in Schedule 1 in relation to an authorization and the annual fee is not paid, the authorization shall not take effect or shall cease to have effect (as the case may be) on the day following the last date by which payment is required under the Ordinance or these Rules.

**PART III****FEES RELATING TO TAKEOVERS, MERGERS AND SHARE REPURCHASES****5. Interpretation (Part III)**

In this Part -

- "circular" (通告) means a document required to be filed with the Executive in connection with an off-market share repurchase in accordance with the Share Repurchase Code;
- "Codes" (《守則》) means the Share Repurchase Code and the Takeovers Code;
- "Executive" (執行人員) means the Executive Director of the Corporate Finance Division of the Commission or any delegate of the Executive Director;
- "offer document" (要約文件) means a document required to be filed with the Executive in connection with an offer in accordance with the Takeovers Code or a general offer in accordance with the Share Repurchase Code;
- "offeree company" (受要約公司) means a corporation for which an offer is made in accordance with the Takeovers Code;
- "Panel" (委員會) means the committee of the Commission known as the Takeovers and Mergers Panel;
- "relevant share capital" (有關股本), in relation to a corporation, means shares of any class comprised in its equity share capital and securities which carry a right to subscribe to or purchase such shares;
- "ruling" (裁定) includes any ruling, waiver, consent, decision, confirmation or other determination in writing, made under either of the Codes by the Executive, the Panel or



the Takeovers Appeal Committee;

" Share Repurchase Code" (《股份購回守則》) means the code published by the Commission under section 399(2)(b) of the Ordinance and as amended from time to time;

" Takeovers Appeal Committee" (收購上訴委員會) means the committee of the Commission known as the Takeovers Appeal Committee;

" Takeovers Code" (《收購守則》) means the code published by the Commission under section 399(2)(a) of the Ordinance and as amended from time to time;

"whitewash document" (清洗交易文件) means a circular required to be submitted to the Executive under Note 1 on dispensations from Rule 26 of the Takeovers Code and the Whitewash Guidance Note in Schedule VI to the Codes.

#### **6. Fees relating to offer documents, whitewash documents and circulars**

(1) The submission to the Executive of the first draft of an offer document, a whitewash document or a circular for comment shall be accompanied by a fee payable to the Commission the amount of which shall be determined in accordance with the provisions of this section.

(2) For the purposes of subsection (1), the fee set out in column 2 of Schedule 2 shall be payable in respect of such value set out, opposite the fee, in column 1 of that Schedule as is equivalent -

(a) in the case of an offer document, to the value of the offer contained in it or, where the offer document contains alternative offers to the same offeree company or 2 or more offers

of different values to different offeree companies, to the value of the offer which has the lower or lowest value, or where an offer may result in variable values, to the lowest value;

- (b) in the case of a circular, to the value of the offer contained in it; or
- (c) in the case of a whitewash document, to the value of the offer that would have been required to be made under Rule 26 of the Takeovers Code in the absence of a waiver under Note 1 on dispensations from Rule 26 of the Takeovers Code and the Whitewash Guidance Note in Schedule VI to the Codes, or where an offer may result in variable values, to the lowest value.

(3) Where an offer by reference to the value of which a fee has been determined in accordance with subsection (2) is replaced by a revised offer, the submission to the Executive of the revised offer shall be accompanied by a fee payable to the Commission the amount of which shall be the difference between -

- (a) the fee previously paid under subsection (1) on submission of the relevant draft offer document or circular; and
- (b) the fee that would have been payable under subsection (1) had the revised offer been included in such draft offer document or circular.

(4) For the purposes of this section, the value of an offer contained in an offer document, a whitewash document or

a circular -

- (a) shall be its value, but only in so far as it relates to the relevant share capital in the offeree company in the case of an offer under the Takeovers Code, or in the company issuing the offer document or the circular under the Share Repurchase Code (as the case may be); and
- (b) in the case of an offer under the Takeovers Code that includes an offer to acquire shares in the offeree company in exchange for securities, shall be calculated by reference to the value of the securities so offered on the date when the offer is made.

(5) The payment of a fee payable under this section shall be accompanied by a statement showing the value of the offer and the manner in which the fee is determined having regard to subsection (4).

**7. Fees for applications to the Panel and the Takeovers Appeals Committee**

Where, pursuant to either of the Codes, a person other than the Executive applies to the Panel for a review of any ruling of the Executive, or applies to the Takeovers Appeals Committee for a review of the appropriateness of any sanction imposed by the Panel -

- (a) the application for the review shall be accompanied by a fee of \$50,000 payable to the Commission; and
- (b) in respect of each day or part of a day in

excess of the first 2 days on which the Panel or the Takeovers Appeals Committee meets for the purposes of the review, the applicant shall, within 30 days after the delivery by the Panel or the Takeovers Appeals Committee (as the case may be) of its ruling, pay an additional fee of \$20,000 to the Commission.

**8. Fees for hearings concerning compliance with the Codes or any rulings under them**

(1) Where a hearing takes place before the Panel in any disciplinary proceedings instituted under section 12 of the Introduction to the Codes, a fee, the amount of which shall be determined in accordance with subsection (3), shall, within 30 days after the delivery by the Panel of its ruling, be payable to the Commission by any person who in the opinion of the Panel -

- (a) has caused unnecessary expense to be incurred in connection with the investigation of the allegation or the conduct of the hearing; or
- (b) has committed a breach of either of the Codes or of a ruling.

(2) Where the hearing referred to in subsection (1) is held for the purposes of deliberating the appropriate sanction to be imposed upon a person who has agreed that he is in breach of either of the Codes or of a ruling, a fee, the amount of which shall be determined in accordance with subsection (3), shall, within 30 days of the delivery by the Panel of its ruling, be payable to the Commission by the person.

(3) The fee payable under subsections (1) and (2) shall

be \$50,000 and, in addition, \$20,000 in respect of each day or part of a day in excess of the first 2 days on which the Panel meets for the purposes of hearing the proceedings.

**9. Fees for miscellaneous applications**

(1) An application to the Executive for any ruling under either of the Codes and for which no fee is otherwise provided by these Rules shall be accompanied by a fee of \$24,000 payable to the Commission.

(2) For the purposes of this section, if a fee is payable under section 6 in relation to the submission of a whitewash document, an application to the Executive for a waiver under Note 1 on dispensations from Rule 26 of the Takeovers Code and the Whitewash Guidance Note in Schedule VI to the Codes shall not be required to be accompanied by the fee referred to in subsection (1) payable to the Commission.

**10. Non-payment of fees**

Subject to section 11, where a fee is required by this Part to accompany an application or the submission of a document, the application or the submission shall not be entertained until the fee is paid.

**PART IV**

**MISCELLANEOUS**

**11. Waiver of fees**

(1) The Commission may waive or refund, in whole or in

part, the payment of any fee prescribed by these Rules for any person or class of persons if it is of the opinion that otherwise the fee would be unduly burdensome or inappropriate.

(2) Where a corporation, an authorized financial institution or an individual -

(a) is, or applies to be, licensed or registered for Type 1 or Type 2 regulated activity under section 116, 119, 120 or 126 of the Ordinance; and

(b) is, or applies to be, licensed or registered for Type 7 regulated activity under section 116, 119, 120 or 126 of the Ordinance,

the application fee and the annual fee payable under Part V of the Ordinance in respect of Type 7 regulated activity shall be waived if the carrying on of Type 7 regulated activity is incidental to the carrying on of Type 1 or Type 2 (as the case may be) regulated activity.

(3) The fee required to be paid by a licensed representative or licensed corporation in item [29] of Schedule 1 or a registered institution in item [40] of that Schedule shall be waived if the application is incidental to any other application for which a fee is payable as prescribed in that Schedule.

## **12. Transitional**

(1) Notwithstanding the repeal of the Securities and Futures Commission (Fees) Rules (Cap. 24 sub. leg.) under section 406 of the Ordinance and without prejudice to the provisions of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1), any fee which may be recovered by

the Commission under section 10(2) of those Rules immediately before the commencement of these Rules may continue to be so recovered by the Commission as if those Rules had not been repealed.

(2) Notwithstanding the repeal of the Leveraged Foreign Exchange Trading (Fees) Rules (Cap. 451 sub. leg.) under section 406 of the Ordinance and without prejudice to the provisions of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1), any fee which may be recovered by the Commission under section 4(3) of those Rules immediately before the coming into operation of these Rules may continue to be so recovered by the Commission as if those Rules had not been repealed.

(3) The transitional provisions set out in Schedule 3 shall apply for a period of two years from the commencement of Part V of the Ordinance.

**SCHEDULE 1**

[ss. 3, 4 & 11  
& Sch. 3]

**APPLICATION FEES, ANNUAL FEES, ETC.**

<b>Item</b>	<b>Description</b>	<b>Fee</b>
		<b>(\$)</b>
<b>Fees under Part III of the Ordinance</b>		
1.	Fee payable on application under section 95(2)(a) of the Ordinance for authorization to provide automated trading services	10,000

- |    |  |            |
|----|--|------------|
| 2. | Annual fee payable by an authorized automated trading services provider approved under section 95(2)(a) of the Ordinance | 10,000     |
| 3. | Fee payable to obtain under section 99(5)(b) a copy of an entry in, or extract of, the register                          | 9 per page |

### Fees under Part IV of the Ordinance

#### Collective investment schemes

- |    |  |  |
|----|--|--|
| 4. | Fee payable on application under section 104(1) of the Ordinance for -                       |  |
|    | (a) authorization of a collective investment scheme -  | 40,000, plus 5,000 for each fund in respect of which authorization is sought (unless the fund is within or maintained by another collective investment scheme which has been authorized) |
|    | (i) within which there is, or could be, more than one fund; or                               |  |
|    | (ii) that maintains, or is capable of maintaining more than one fund                         |  |
|    | (b) authorization of any other collective investment scheme                                  | 20,000   |
|    | (c) extension of authorization of a collective investment scheme to cover an additional fund | 5,000 (unless the fund is within or maintained by another collective investment scheme which has been authorized)  |



5. Fee payable in respect of -
- |   |   |
|---|---|
| <p>(a) authorization under section 104 of the Ordinance of a collective investment scheme -</p> <p>(i) within which there is, or could be, more than one fund; or</p> <p>(ii) that maintains, or is capable of maintaining more than one fund</p> | <p>20,000, plus 2,500 for each fund in respect of which authorization is sought (unless the fund is within or maintained by another collective investment scheme which has been authorized)</p> |
| <p>(b) authorization under section 104 of the Ordinance of any other collective investment scheme</p>   | <p>10,000</p>   |
| <p>(c) extension of authorization under section 104 of the Ordinance of a collective investment scheme to cover an additional fund</p>  | <p>2,500 (unless the fund is within or maintained by another collective investment scheme which has been authorized)</p>  |
6. Annual fee payable in respect of authorization under section 104 of the Ordinance which is not limited to a period of less than 12 months -
- |   |  |
|---|--|
| <p>(a) in the case of an authorized collective investment scheme -</p> <p>(i) within which there is, or could be, more than one fund; or</p> <p>(ii) that maintains, or is capable of maintaining</p> | <p>7,500 plus 4,500 in respect of each fund (unless the fund is within or maintained by another collective</p> |
|---|--|

	more than one fund	investment scheme which has been authorized)
	(b) in the case of any other authorized collective investment scheme	6,000
7.	Fee payable on application for extension of the period of authorization of any collective investment scheme where authorization under section 104 of the Ordinance is limited to a period of less than 12 months	20,000
<b>Authorization of the issue of advertisements, etc.</b>		
8.	Fee payable on application under section 105(1) of the Ordinance for authorization of the issue of an advertisement, invitation or document in respect of any securities, regulated investment agreements or collective investment schemes which have not been authorized under section 104 of the Ordinance or which are no longer so authorized	20,000
9.	Fee payable in respect of authorization under section 105 of the Ordinance for the issue of an advertisement, invitation or document in respect of any securities, regulated investment agreements or collective investment schemes which have not been authorized under section 104 of the Ordinance or which are no longer so authorized	10,000
10.	Fee payable on application to modify a previous authorization under section 105 of the Ordinance for an advertisement, invitation or document in relation to -	
	(a) any instrument specified in Part 2 of Schedule 4 to the Ordinance	3,000

	(b) any certificate of deposit	3,000
	(c) any securities other than interests in a collective investment scheme	3,000
11.	Where authorization is sought under section 105 of the Ordinance for any advertisement, invitation or document, and any fee otherwise payable under item [8] or [9] is waived by the Commission under section 11 of these Rules -	
	(a) fee payable on application	1,200
	(b) fee payable in respect of authorization	600
12.	Fee payable where documentation is submitted to the Commission requiring its consideration and advice on the application of Part IV of the Ordinance and on the authorization for registration of a prospectus under section 38D or 342C of the Companies Ordinance (Cap. 32)	10,000

**Fees under Part V of the Ordinance**

13.	Fee payable on application by a corporation under section 116 of the Ordinance for a licence to carry on any one type, and for each additional type, of regulated activity other than Type 3 regulated activity	4,740
14.	Fee payable on application by an individual under section 120 of the Ordinance for a licence to carry on any one type, and for each additional type, of regulated activity other than Type 3 regulated activity	1,790
15.	Fee payable on application by a corporation under section 116 of the Ordinance for a licence to carry on Type 3 regulated activity	129,730

16.	Fee payable on application by an individual under section 120 of the Ordinance for a licence to carry on Type 3 regulated activity	2,420
17.	Additional fee payable on request by an individual under section 120(2) of the Ordinance for a provisional licence	800
18.	Fee payable on application by a corporation under section 117 of the Ordinance for a temporary licence to carry on any one type, and for each additional type, of regulated activity	4,900
19.	Fee payable on application by an individual under section 121 of the Ordinance for a temporary licence to carry on any one type, and for each additional type, of regulated activity	1,850

**Application fees for changes to a licence**

20.	Fee payable on application by a licensed representative under section 122(1) of the Ordinance for approval of any accreditations, which are not already specified in the applicant's licence	200
21.	Fee payable on application by a licensed representative under section 122(2) of the Ordinance for the approval of transfer of accreditation, for each type of regulated activity	200
22.	Fee payable on application by a licensed representative under section 126(1) of the Ordinance for approval as a responsible officer, for each type of regulated activity	2,950
23.	Fee payable on application by a licensed corporation under section 127 of the Ordinance to vary the regulated activity specified in the applicant's licence by adding any one type of regulated activity other than Type 3 regulated activity	4,740

24.	Fee payable on application by a licensed corporation under section 127 of the Ordinance to vary the regulated activity specified in the applicant's licence by adding Type 3 regulated activity	129,730
25.	Fee payable on application by a licensed corporation under section 127 of the Ordinance to vary the regulated activity specified in the applicant's licence by removing any one type of regulated activity (unless ceasing to be licensed for all types of regulated activity)	200
26.	Fee payable on application by a licensed representative under section 127 of the Ordinance to vary the regulated activity specified in the applicant's licence by adding any one type of regulated activity other than Type 3 regulated activity	1,790
27.	Fee payable on application by a licensed representative under section 127 of the Ordinance to vary the regulated activity specified in the applicant's licence by adding Type 3 regulated activity	2,420
28.	Fee payable on application by a licensed representative under section 127 of the Ordinance to vary the regulated activity specified in the applicant's licence by removing any one type of regulated activity (unless ceasing to be licensed for all types of regulated activity)	200
29.	Fee payable on application by a licensed corporation or licensed representative for the grant of a licence in the circumstances where the licensed corporation or licensed representative has substantially changed its or his particulars since the grant of its existing licence	200

**Annual fees for licensed persons**

30.	Annual fee payable under section 138(1) of the Ordinance by a corporation licensed under section 116 of the Ordinance, for each type of regulated activity for which it is licensed other than Type 3 regulated activity	4,740
31.	Annual fee payable under section 138(1) of the Ordinance by an individual licensed under section 120 of the Ordinance, for each type of regulated activity for which he is licensed other than Type 3 regulated activity	1,790
32.	Annual fee payable under section 138(1) of the Ordinance by an individual licensed under section 120 of the Ordinance and approved under section 126(1) of the Ordinance as a responsible officer, for each type of regulated activity for which he is licensed other than Type 3 regulated activity	4,740
33.	Annual fee payable under section 138(1) of the Ordinance by a corporation licensed under section 116 of the Ordinance for Type 3 regulated activity	129,730
34.	Annual fee payable under section 138(1) of the Ordinance by an individual licensed under section 120 of the Ordinance for Type 3 regulated activity	2,420
35.	Annual fee payable under section 138(1) of the Ordinance by an individual licensed under section 120 of the Ordinance and approved under section 126(1) of the Ordinance as a responsible officer for Type 3 regulated activity	5,370

**Fees for registered institutions**

36.	Fee payable on application by an authorized financial institution under section 119(1) of the Ordinance for registration as a registered institution to carry on any one type, and for each	23,500
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	additional type, of regulated activity	
37.	Annual fee payable under section 138(1) of the Ordinance by a registered institution, for each type of regulated activity for which it is registered	35,000
38.	Fee payable on application by a registered institution under section 127 of the Ordinance to vary the regulated activity specified in the applicant's certificate of registration by adding any one additional type of regulated activity	23,500
39.	Fee payable on application by a registered institution under section 127 of the Ordinance to vary the regulated activity specified in the applicant's certificate of registration by removing any one type of regulated activity (unless ceasing to be registered for all types of regulated activity)	200
40.	Fee payable on application by a registered institution for the grant of a certificate of registration in the circumstances where the registered institution has substantially changed its particulars since the grant of its existing certificate	200

#### **Miscellaneous fees**

41.	Fee payable on application under section 130 of the Ordinance for approval of any premises for keeping records or documents required under the Ordinance	1,000
42.	Fee payable on application under section 132 of the Ordinance for approval to become or continue to be a substantial shareholder of a corporation licensed under section 116 of the Ordinance	3,000
43.	Fee payable on application under section 134(1) of the Ordinance for a modification or waiver in respect of -	

(a)	any condition specified in section 118 of the Ordinance or imposed under section 116, 117, 119, 120, 121, 126 or 132 or any of the requirements of s.121(2)(a) of the Ordinance	2,000
(b)	any of the requirements of sections 116(2)(b) and 125(1) and (2) of the Ordinance	2,000
(c)	any of the requirements of sections 116(2)(c) and 130 of the Ordinance	2,000
(d)	any of the requirements of section 129 of the Ordinance	4,000
(e)	any of the requirements of rules made under section 145 of the Ordinance (except one relating to hedging or arbitrage programmes)	6,000
(f)	any of the requirements of rules made under section 145 of the Ordinance, relating to hedging or arbitrage programmes -	
	(i) where at least one side of the portfolio is less than \$10,000,000;	10,000
	(ii) in any other case	20,000
(g)	any of the requirements of rules made under section 148 of the Ordinance	6,000
(h)	any of the requirements of rules made under section 149 of the Ordinance	6,000
(i)	any of the requirements of rules made under section 151 of the Ordinance	6,000
(j)	any of the requirements of rules made under section 152 of the Ordinance	6,000



44.	Fee payable for renewal of a waiver or modification referred to in item 43(e), (f), (g), (h), (i) or (j)	4,000
45.	Fee payable on application under section 124(1) of the Ordinance for a duplicate licence or certificate of registration	200
46.	Fee payable to obtain under section 136(5)(b) of the Ordinance a copy of an entry in, or extract of, a register maintained under section 136(1) of the Ordinance	9 per page
47.	Fee payable for certification of a copy of a document as a true copy under section 136(6)(b) of the Ordinance	200
48.	Fee payable for a copy of a document for which no fee is otherwise specified in this Schedule	9 per page

**Fees under Part VI of the Ordinance**

49.	Fee payable on application for any approval for the purposes of rules made under section 145 of the Ordinance	6,000
50.	Fee payable for renewal of an approval referred to in item [49]	4,000
51.	Fee payable on application for any approval for the purposes of rules made under section 148 of the Ordinance of any company or overseas company as suitable for safe custody of client securities and collateral	6,000
52.	Fee payable for renewal of an approval referred to in item [51]	4,000
53.	Fee payable on application for any approval of a person with whom segregated accounts can be established and maintained for the purposes of rules made under section 149 of the Ordinance	6,000
54.	Fee payable for renewal of an approval referred to in item [53]	4,000

55. Fee payable on application by a licensed corporation or an associated entity of a licensed corporation -
- |  |       |
|--|-------|
| (a) under section 155(3)(a) of the Ordinance, for approval to alter its financial year end                             | 2,000 |
| (b) under section 155(3)(b) of the Ordinance, for approval to adopt a period exceeding 12 months as its financial year | 2,000 |
| (c) for approval of the matters specified in paragraphs (a) and (b) on the same occasion                               | 2,000 |
| (d) under section 156(4) of the Ordinance, for extension of the period within which to lodge the requisite documents   | 2,000 |

**Fees under Part XV of the Ordinance**

- |   |        |
|---|--------|
| 56. Fee payable on application under section 309(2) or (3) of the Ordinance for an exemption from all or any of the provisions of Part XV of the Ordinance  | 24,000 |
| 57. Fee payable on application by a corporation under section [6] of the Securities and Futures (Disclosure of Interests - Securities Borrowing and Lending) Rules (L.N. of 2002) for approval as an approved lending agent | 24,000 |

**Fees under the Companies Ordinance  
(Cap. 32)**

- |   |        |
|---|--------|
| 58. Fee payable on application for authorization for registration of a prospectus under the Companies Ordinance (Cap. 32) - |        |
| (a) in the case of rights issue prospectus  | 15,000 |

(b)	in the case of Eurobond issue prospectus	15,000
(c)	in the case of warrant issue prospectus	10,000
(d)	in the case of prospectus relating to interests in a collective investment scheme	nil
(e)	in the case of any prospectus not referred to in paragraph (a), (b), (c) or (d), offering to the public for subscription or purchase for cash or other consideration, or calculated to invite offers by the public to subscribe for or purchase for cash or other consideration, any shares or debentures of a corporation that has been approved by a recognized exchange company for listing on a recognized stock market	30,000

**SCHEDULE 2**

**[s. 6]**

**FEES RELATING TO OFFER DOCUMENTS, WHITEWASH DOCUMENTS  
AND CIRCULARS**

Value of offer	Fee
	\$
Not exceeding \$75,000,000	25,000
Exceeding \$75,000,000 but not exceeding \$125,000,000	75,000
Exceeding \$125,000,000 but not exceeding \$300,000,000	150,000
Exceeding \$300,000,000 but not exceeding \$600,000,000	250,000
Exceeding \$600,000,000 but not exceeding \$1,200,000,000	350,000
Exceeding \$1,200,000,000	\$500,000 plus 0.01% of value over \$2,000,000,000

## SCHEDULE 3

[s. 12]

**TRANSITIONAL PROVISIONS**

1. Where a person applies for a licence under section 116 or 120, registration under section 119 or approval as a responsible officer under section 126 of the Ordinance, the application fee payable by that person shall be waived if the application relates only to the regulated activity or activities for which that person is deemed to have been licensed or registered (as the case may be).

**Fees relating to corporations (other than exempt dealers and exempt investment advisers)**

2. Where a corporation is deemed under section 22(a), (b), (d) or (e) of Part 1 of Schedule 10 to the Ordinance to have been licensed, the annual fee specified in item [30] of Schedule 1 for one of the regulated activities for which it is so deemed to have been licensed shall be payable and the annual fees for the other stated regulated activities shall be waived.

3. Where an individual is deemed under section 23(a), (b), (d) or (e) of Part 1 of Schedule 10 to the Ordinance to have been licensed and is deemed to have been approved as a responsible officer, the annual fee specified in item [32] of Schedule 1 for one of the regulated activities for which he is so deemed to have been licensed shall be payable and the annual fees for the other stated regulated activities shall

be waived.

4. Where an individual is deemed under section 23(c) of Part 1 of Schedule 10 to the Ordinance to have been licensed and is deemed to have been approved as a responsible officer, the annual fee specified in item [31] of Schedule 1 shall be payable instead of the annual fee specified in item [32] of Schedule 1 which shall be waived.

5. Where an individual applies for approval as a responsible officer of a corporation which is deemed under section 22(c) of Part 1 of Schedule 10 to the Ordinance to have been licensed for Type 8 regulated activity or is deemed under section 22(f) of Part 1 of that Schedule to have been licensed for Type 3 regulated activity (as the case may be), the application fee specified in item [22] of Schedule 1 shall be waived.

6. Where an individual is deemed under section 23(f) of Part 1 of Schedule 10 to the Ordinance to have been licensed and is deemed to have been approved as a responsible officer, the annual fee specified in item [34] of Schedule 1 shall be payable instead of the annual fee specified in item [35] of Schedule 1 which shall be waived.

7. Where an individual is deemed under section 24(a), (b), (d) or (e) of Part 1 of Schedule 10 to the Ordinance to have been licensed, the annual fee specified in item [31] of Schedule 1 for one of the regulated activities for which he

is so deemed to have been licensed shall be payable and the annual fees for the other stated regulated activities shall be waived.

8. Where an individual applies for approval as the second responsible officer of a corporation in respect of a regulated activity for which it is deemed under section 22(a), (b), (d) or (e) of Part 1 of Schedule 10 to the Ordinance to have been licensed, if the corporation to which the individual is accredited has only one responsible officer in respect of that regulated activity at the time of the application and had only one individual deemed under section 23(a), (b), (d) or (e) of Part 1 of Schedule 10 to the Ordinance to have been approved as a responsible officer in respect of that regulated activity when Part V of the Ordinance commenced, the application fee specified in item [22] of Schedule 1 shall be waived and the annual fee specified in item [31] of Schedule 1 shall be payable by the individual instead of the annual fee specified in item [32] of Schedule 1 which shall be waived.

9. Where an individual is licensed under section 120(1) of the Ordinance for Type 8 regulated activity and approved as a responsible officer of a corporation which is deemed under section 22(c) of Part 1 of Schedule 10 to the Ordinance to have been licensed for Type 8 regulated activity, the annual fee specified in item [31] of Schedule 1 shall be payable instead of the annual fee specified in item [32] of Schedule 1 which shall be waived.

10. Where an individual is licensed under section 120(1) of the Ordinance for Type 3 regulated activity and approved as a responsible officer of a corporation which is deemed under section 22(f) of Schedule 10 to the Ordinance to have been licensed for Type 3 regulated activity, the annual fee specified in item [34] of Schedule 1 shall be payable instead of the annual fee specified in item [35] of Schedule 1 which shall be waived.

**Fees relating to persons who are exempt dealers or exempt investment advisers**

11. Where an authorized financial institution is deemed -

- (a) under section 25(a)(i) of Schedule 10 to the Ordinance to have been registered, the annual fee payable shall be \$14,000 in respect of regulated activities for which it is deemed under that section to have been registered;
- (b) under section 25(a)(ii) of Part 1 of Schedule 10 of the Ordinance to have been registered, the annual fee payable shall be \$7,000 in respect of the regulated activities for which it is deemed under that section to have been registered.

12. Where a corporation is deemed -

- (a) under section 25(b)(i) of Part 1 of Schedule 10 of the Ordinance to have been licensed, the annual fee payable shall be \$14,000 in respect of regulated activities for which it is deemed under that section to have been licensed;

- (b) under section 25(b)(ii) of Part 1 of Schedule 10 of the Ordinance to have been licensed, the annual fee payable shall be \$7,000 in respect of regulated activities for which it is deemed under that section to have been licensed.

13. Where an individual is deemed under section 26(ii) of Part 1 of Schedule 10 to the Ordinance to have been licensed, the annual fee payable by the individual shall be waived if the individual carries out the same regulated activity or activities as that or those for which the licensed corporation to which he is accredited is deemed under section 25(b) of Part 1 of Schedule 10 to the Ordinance to have been licensed.

**Fees relating to partnerships and corporations succeeding the partnerships**

14. Where a corporation succeeds the business of a partnership which was deemed under section 27(a), (b), (c) or (d) of Part 1 of Schedule 10 of the Ordinance to have been licensed and applies for a licence under section 116 of the Ordinance, the application fee specified in item [13] of Schedule 1 shall be waived if the application relates only to the regulated activity or activities for which the partnership was deemed under section 27(a), (b), (c) or (d) Part 1 of of Schedule 10 of the Ordinance to have been licensed.

15. Where a partnership is deemed under section 27(a), (b), (c) or (d) of Part 1 of Schedule 10 to the Ordinance to have



been licensed, the annual fee specified in item [30] of Schedule 1 for one of the regulated activities for which the partnership is so deemed to have been licensed shall be payable and the annual fees for the other stated regulated activities shall be waived.

16. Where an individual is deemed under section 28(a), (b), (c) or (d) of Part 1 of Schedule 10 to the Ordinance to have been licensed and is deemed to have been approved as a responsible officer, the annual fee specified in item [32] of Schedule 1 for one of the regulated activities for which he is so deemed to have been licensed shall be payable and the annual fees for the other stated regulated activities shall be waived.

17. Where an individual is deemed under section 29(a), (b), (c) or (d) of Part 1 of Schedule 10 to the Ordinance to have been licensed, the annual fee specified in item [31] of Schedule 1 for one of the regulated activities for which he is so deemed to have been licensed shall be payable and the annual fees for the other stated regulated activities shall be waived.

**Fees relating to sole proprietors and corporations succeeding the sole proprietors**

18. Where a corporation succeeds the business of an individual who was deemed under section 30(a)(i), (b)(i), (c)(i) or (d)(i) of Part 1 of Schedule 10 to the Ordinance to have been licensed and applies for a licence under section 116 of the Ordinance, the application fee payable by that

corporation under item [13] of Schedule 1 and the annual fee specified in item [30] of Schedule 1 for the regulated activity or activities for which the individual was so deemed to have been licensed shall be waived.

19. Where an individual is deemed under section 30(a), (b), (c) or (d) of Part 1 of Schedule 10 to the Ordinance to have been licensed -

(a) the annual fees specified in item [30] of Schedule 1 in relation to the regulated activities for which the individual is deemed under section 30(a)(i), (b)(i), (c)(i) or (d)(i) of Part 1 of Schedule 10 to the Ordinance to have been licensed shall be waived; and

(b) the annual fees specified in item [31] of Schedule 1 in relation to the regulated activities for which he is deemed under section 30(a)(ii), (b)(ii), (c)(ii) or (d)(ii) of Part 1 of Schedule 10 to the Ordinance to have been licensed shall be waived,

but the annual fee specified in item [32] of Schedule 1 for one of the regulated activities in relation to which he is deemed under section 30(a)(iii), (b)(iii), (c)(iii) or (d)(iii) of Part 1 of Schedule 10 to the Ordinance to have been approved as a responsible officer shall be payable and the annual fees for the other stated regulated activities shall be waived.

20. Where an individual is deemed under section 31(a), (b),

(c) or (d) of Part 1 of Schedule 10 to the Ordinance to have been licensed, the annual fee specified in item [31] of Schedule 1 for one of the regulated activities for which he is so deemed to have been licensed shall be payable and the annual fees for the other stated regulated activities shall be waived.

21. Where an individual applies for approval as a responsible officer of a corporation which is deemed under section 30(a)(i), (b)(i), (c)(i) or (d)(i) of Part 1 of Schedule 10 to the Ordinance to have been licensed or a licensed corporation which has succeeded the first-mentioned corporation, the application fee specified in item [22] of Schedule 1 shall be waived and the annual fee specified in item [31] of Schedule 1 shall be payable instead of the annual fee specified in item [32] of Schedule 1 which shall be waived.

#### **Fees relating to licensed banks**

22. Where a licensed bank is deemed to have been registered under section 119(1) of the Ordinance in accordance with section 32 of Part 1 of Schedule 10 to the Ordinance, the annual fee payable by that registered institution shall be waived.

#### **Miscellaneous**

23. Notwithstanding any other provision of this Schedule, where a person lodges an application pursuant to [section 1] within one year after the commencement of Part V of the

Ordinance, the person shall be entitled to a discount which is equivalent to 5% of the annual fee specified in column 2 of Schedule 4 which is opposite to the status of the person immediately before the commencement of Part V of the Ordinance as specified in column 1 of Schedule 4 for the period from the date on which the application is received by the Commission to the end of the transition period and which is to be applied as follows -

- (a) the discount that relates to the period from the date on which the application is received by the Commission to the earlier of the first anniversary of the date of the grant of the licence or certificate of registration (as the case may be) or the end of the transition period shall be deducted from the annual fee under Part V of the Ordinance on the first occasion on which it is payable after the grant of the licence or certificate of registration; and
- (b) where applicable, the discount that relates to the period from the first anniversary of the date of the grant of the licence or certificate of registration (as the case may be) to the end of the transition period shall be deducted from the annual fee under Part V of the Ordinance on the second occasion on which it is payable after the grant of the licence or certificate of registration.

24. Where a person is required to pay an annual fee under Part V of the Ordinance, the part of the annual fee that relates to a period for which that person has already paid an annual fee under the Securities and Futures Commission (Fees) Rules (Cap. 24 sub. leg.) repealed under section 406 of the Ordinance, before the commencement of Part V of the Ordinance, shall be waived.

25. The provisions of this Schedule shall continue to apply in respect of the person deemed under Part 1 of Schedule 10 to the Ordinance to have been licensed on the commencement of Part V of the Ordinance or any successor of such person notwithstanding that person or successor of that person has been granted a licence under sections 116 or 120, registration under section 119 or approval as a responsible officer under section 126 of the Ordinance.

**SCHEDULE 4**

[Sch. 3]

**ANNUAL FEES PAYABLE UNDER THE REGIME IMMEDIATELY  
BEFORE THE COMMENCEMENT OF THE SECURITIES AND  
FUTURES ORDINANCE**

	<b>Annual Fee</b> \$
<b>Status under the repealed Securities Ordinance -</b>	
(1) Exempt dealer	14,000
(2) Exempt investment adviser	7,000

(3) Dealer	4,900
(4) Investment adviser	4,900
(5) Securities margin financier	4,900
(6) Dealer's representative	1,850
(7) Investment representative	1,850
(8) Securities margin financier's representative	1,850

**Status under the repealed Commodities Trading Ordinance**

(9) Dealer	4,900
(10) Commodity trading adviser	4,900
(11) Dealer's representative	1,850
(12) Commodity trading adviser's representative	1,850

**Status under the repealed Leveraged Foreign Exchange Trading Ordinance**

(13) Leveraged foreign exchange trader	133,750
(14) Leveraged foreign exchange trader's representative	2,500

Clerk to the Executive

Council

COUNCIL CHAMBER

2002

**Explanatory Note**

These Rules are made by the Chief Executive in Council

under section 395 of the Securities and Futures Ordinance (5 of 2002). They require and provide for payment to the Commission of fees and prescribe fees for applications to the Commission under or pursuant to the Ordinance, anything done by the Commission in the performance of a function relating to takeovers, mergers and share repurchases, anything done by the Commission in the performance of a function under any of the relevant provisions of the Ordinance or which this Ordinance provides are or may be prescribed for by rules made under section 395 of the Ordinance, etc.

## SUMMARY OF PROPOSED FEES AND EXISTING FEES

Item	Description of Proposed Fee	Proposed Fee (\$)	Amount of Existing Fee (\$)	Reference in current legislation
	<b>Fees under Part III of the Ordinance</b>			
1.	Fee payable on application under section 95(2)(a) of the Ordinance for authorization to provide automated trading services	10,000	n/a	new
2.	Annual fee payable by an authorized automated trading services provider approved under section 95(2)(a) of the Ordinance	10,000	n/a	new
3.	Fee payable to obtain under section 99(5)(b) a copy of an entry in, or extract of, the register	9 per page	n/a	new
	<b>Fees under Part IV of the Ordinance</b>			
	<i>Collective investment schemes</i>			
4.	Fee payable on application under section 104(1) of the Ordinance for -			
	(a) authorization of a collective investment scheme – (i) within which there is, or could be, more than one fund; or (ii) that maintains, or is capable of maintaining more than one fund	40,000, plus 5,000 for each fund in respect of which authorization is sought (unless the fund is within or maintained by another collective investment scheme which has been authorized)	40,000, plus 5,000 for each fund in respect of which authorization is sought (for unit trusts and mutual fund corporations only) <b>or</b> 20,000-30,000 (for other investment products)	SFC (Fees) Rules <sup>A</sup> , Sch 1: 7(a) & (b), 10(a) & (b)
	(b) authorization of any other collective investment scheme	20,000	20,000	SFC (Fees) Rules, Sch 1: 7(c), 10(a) & (b)
	(c) extension of authorization of a collective investment scheme to cover an additional fund	5,000 (unless the fund is within or maintained by another collective investment scheme which has been	5,000	SFC (Fees) Rules, Sch 1: 7(d)

<sup>A</sup> **SFC (Fees) Rules:** Securities and Futures Commission (Fees) Rules (Cap.24 sub. leg. C)



## Attachment 2

		authorized)		
5.	Fee payable in respect of –			
	(a) authorization under section 104 of the Ordinance of a collective investment scheme – (i) within which there is, or could be, more than one fund; or (ii) that maintains, or is capable of maintaining more than one fund	20,000, plus 2,500 for each fund in respect of which authorization is sought (unless the fund is within or maintained by another collective investment scheme which has been authorized)	20,000, plus 2,500 for each fund to which authorization extends (for unit trusts and mutual fund corporations only) <b>or</b> 10,000-20,000 (for other investment products)	SFC (Fees) Rules, Sch 1: 8(a) & (b), 11(a) & (b)
	(b) authorization under section 104 of the Ordinance of any other collective investment scheme	10,000	10,000	SFC (Fees) Rules, Sch 1: 8(c), 11(a) & (b)
	(c) extension of authorization under section 104 of the Ordinance of a collective investment scheme to cover an additional fund	2,500 (unless the fund is within or maintained by another collective investment scheme which has been authorized)	2,500	SFC (Fees) Rules, Sch 1: 8(d)
6.	Annual fee payable in respect of authorization under section 104 of the Ordinance which is not limited to a period of less than 12 months -			
	(a) in the case of an authorized collective investment scheme – (i) within which there is, or could be, more than one fund; or (ii) that maintains, or is capable of maintaining more than one fund	7,500 plus 4,500 in respect of each fund (unless the fund is within or maintained by another collective investment scheme which has been authorized)	7,500 plus 4,500 in respect of each fund (for unit trusts and mutual fund corporations only) <b>or</b> 6,000 (for other investment products)	SFC (Fees) Rules, Sch 1: 9(a) & (b), 12
	(b) in the case of any other authorized collective investment scheme	6,000	6,000	SFC (Fees) Rules, Sch 1: 9(c) & 12
7.	Fee payable on application for extension of the period of authorization of any collective investment scheme where authorization under section 104 of the Ordinance is limited to a period of less than 12 months	20,000	10,000-20,000	New and SFC (Fees) Rules, Sch 1: 14(a) & (b)
	<i>Authorization of the issue of advertisements, etc.</i>			

## Attachment 2

8.	Fee payable on application under section 105(1) of the Ordinance for authorization of the issue of an advertisement, invitation or document in respect of any securities, regulated investment agreements or collective investment schemes which have not been authorized under section 104 of the Ordinance or which are no longer so authorized	20,000	20,000-30,000	SFC (Fees) Rules, Sch 1: 10(a) & (b)
9.	Fee payable in respect of authorization under section 105 of the Ordinance for the issue of an advertisement, invitation or document in respect of any securities, regulated investment agreements or collective investment schemes which have not been authorized under section 104 of the Ordinance or which are no longer so authorized	10,000	10,000-20,000	SFC (Fees) Rules, Sch 1: 11(a) & (b)
10.	Fee payable on application to modify a previous authorization under section 105 of the Ordinance for an advertisement, invitation or document in relation to -			
	(a) any instrument specified in Part 2 of Schedule 4 to the Ordinance	3,000	3,000	SFC (Fees) Rules, Sch 1: 13(a)
	(b) any certificate of deposit	3,000	3,000	SFC (Fees) Rules, Sch 1: 13(b)
	(c) any securities other than interests in a collective investment scheme	3,000	3,000	SFC (Fees) Rules, Sch 1: 13(c)
11.	Where authorization is sought under section 105 of the Ordinance for any advertisement, invitation or document, and any fee otherwise payable under item [8] or [9] is waived by the Commission under section 11 of these Rules -			
	(a) fee payable on application	1,200	1,200	SFC (Fees) Rules, Sch 1: 15(a)
	(b) fee payable in respect of authorization	600	600	SFC (Fees) Rules, Sch 1: 15(b)
12.	Fee payable where documentation is submitted to the Commission requiring its consideration and advice on the application of Part IV of the Ordinance and on the authorization for registration of a prospectus under section 38D or 342C of the Companies Ordinance (Cap. 32)	10,000	10,000	SFC (Fees) Rules, Sch 1: 16
	<b>Fees under Part V of the Ordinance</b>			
13.	Fee payable on application by a corporation under section 116 of the Ordinance for a licence to carry on any one type, and for each additional type, of regulated activity other than Type 3 regulated activity	4,740	4,900	SFC (Fees) Rules, Sch 1: 1(a) & (c), 2(a) & (c)
14.	Fee payable on application by an individual	1,790	1,850	SFC (Fees)

## Attachment 2

	under section 120 of the Ordinance for a licence to carry on any one type, and for each additional type, of regulated activity other than Type 3 regulated activity			Rules, Sch 1: 1(b) & (d) 2(b) & (d)
15.	Fee payable on application by a corporation under section 116 of the Ordinance for a licence to carry on Type 3 regulated activity	129,730	133,750	LEFT (Fees) Rules <sup>B</sup> , Sch: 1(a)
16.	Fee payable on application by an individual under section 120 of the Ordinance for a licence to carry on Type 3 regulated activity	2,420	2,500	LEFT (Fees) Rules, Sch: 1(b)
17.	Additional fee payable on request by an individual under section 120(2) of the Ordinance for a provisional licence	800	n/a	new
18.	Fee payable on application by a corporation under section 117 of the Ordinance for a temporary licence to carry on any one type, and for each additional type, of regulated activity	4,900	n/a	new
19.	Fee payable on application by an individual under section 121 of the Ordinance for a temporary licence to carry on any one type, and for each additional type, of regulated activity	1,850	1,850 <sup>1</sup>	SFC (Fees) Rules, Sch 1: 1(b) & (d) 2(b) & (d)
	<i>Application fees for changes to a licence</i>			
20.	Fee payable on application by a licensed representative under section 122(1) of the Ordinance for approval of any accreditations, which are not already specified in the applicant's licence	200	200 <sup>2</sup>	New, but similar to SFC (Fees) Rules, Sch 1: 21
21.	Fee payable on application by a licensed representative under section 122(2) of the Ordinance for the approval of transfer of accreditation, for each type of regulated activity	200	200 <sup>2</sup>	New, but similar to SFC (Fees) Rules, Sch 1: 21
22.	Fee payable on application by a licensed representative under section 126(1) of the Ordinance for approval as a responsible officer, for each type of regulated activity	2,950	4,900 <sup>3</sup>	SFC (Fees) Rules, Sch 1: 1(a) & (c) 2(a) & (c)
23.	Fee payable on application by a licensed corporation under section 127 of the Ordinance to vary the regulated activity specified in the applicant's licence by adding any one type of regulated activity other than Type 3 regulated activity	4,740	4,900 <sup>1</sup>	SFC (Fees) Rules, Sch 1: 1(a) & (c) 2(a) & (c)
24.	Fee payable on application by a licensed corporation under section 127 of the Ordinance to vary the regulated activity specified in the applicant's licence by adding	129,730	133,750 <sup>1</sup>	LFET (Fees) Rules, Sch: 1(a)

<sup>B</sup> **LFET (Fees) Rules:** Leveraged Foreign Exchange Trading (Fees) Rules (Cap.451 sub. leg. F)

<sup>1</sup> Under the current regime, the usual application fee would be applicable in this circumstance.

<sup>2</sup> Under the current regime, a certificate amendment fee would be applicable in this circumstance.

<sup>3</sup> Responsible officers assume similar supervisory responsibilities of current dealing/investment adviser directors. Under the new regime, for an individual to become a responsible officer, he will need to pay the application fee as a licensed representative (\$1,790) and the application fee for approval as a responsible officer (\$2,950), the total being \$4,740 (i.e. \$1,790 + \$2,950).

## Attachment 2

	Type 3 regulated activity			
25.	Fee payable on application by a licensed corporation under section 127 of the Ordinance to vary the regulated activity specified in the applicant's licence by removing any one type of regulated activity (unless ceasing to be licensed for all types of regulated activity)	200	200 <sup>2</sup>	SFC (Fees) Rules, Sch 1: 21
26.	Fee payable on application by a licensed representative under section 127 of the Ordinance to vary the regulated activity specified in the applicant's licence by adding any one type of regulated activity other than Type 3 regulated activity	1,790	1,850 <sup>1</sup>	SFC (Fees) Rules, Sch 1: 1(b) & (d) 2(b) & (d)
27.	Fee payable on application by a licensed representative under section 127 of the Ordinance to vary the regulated activity specified in the applicant's licence by adding Type 3 regulated activity	2,420	2,500 <sup>1</sup>	LFET (Fees) Rules, Sch: 1(b)
28.	Fee payable on application by a licensed representative under section 127 of the Ordinance to vary the regulated activity specified in the applicant's licence by removing any one type of regulated activity (unless ceasing to be licensed for all types of regulated activity)	200	200 <sup>2</sup>	SFC (Fees) Rules, Sch 1: 21
29.	Fee payable on application by a licensed corporation or licensed representative for the grant of a licence in the circumstances where the licensed corporation or licensed representative has substantially changed its or his particulars since the grant of its existing licence	200	200  210	SFC (Fees) Rules, Sch 1: 21  LEFT (Fees) Rules, Sch: 3
	<b><i>Annual fees for licensed persons</i></b>			
30.	Annual fee payable under section 138(1) of the Ordinance by a corporation licensed under section 116 of the Ordinance, for each type of regulated activity for which it is licensed other than Type 3 regulated activity	4,740	4,900	SFC (Fees) Rules, Sch 1: 3(a) & (c) 4(a) & (c)
31.	Annual fee payable under section 138(1) of the Ordinance by an individual licensed under section 120 of the Ordinance, for each type of regulated activity for which he is licensed other than Type 3 regulated activity	1,790	1,850	SFC (Fees) Rules, Sch 1: 3(b) & (d) 4(b) & (d)
32.	Annual fee payable under section 138(1) of the Ordinance by an individual licensed under section 120 of the Ordinance and approved under section 126(1) of the Ordinance as a responsible officer, for each type of regulated activity for which he is licensed other than Type 3 regulated activity	4,740	4,900 <sup>3</sup>	SFC (Fees) Rules, Sch 1: 3(a) & (c) 4(a) & (c)
33.	Annual fee payable under section 138(1) of the Ordinance by a corporation licensed under section 116 of the Ordinance for Type 3 regulated activity	129,730	133,750	LEFT (Fees) Rules, Sch: 2(a)
34.	Annual fee payable under section 138(1) of the Ordinance by an individual licensed	2,420	2,500	LEFT (Fees) Rules, Sch:

## Attachment 2

	under section 120 of the Ordinance for Type 3 regulated activity			2(b)
35.	Annual fee payable under section 138(1) of the Ordinance by an individual licensed under section 120 of the Ordinance and approved under section 126(1) of the Ordinance as a responsible officer for Type 3 regulated activity	5,370	2,500 <sup>4</sup>	LEFT (Fees) Rules, Sch: 2(b)
	<b><i>Fees for registered institutions</i></b>			
36.	Fee payable on application by an authorized financial institution under section 119(1) of the Ordinance for registration as a registered institution to carry on any one type, and for each additional type, of regulated activity	23,500	23,500 (exempt dealer)  7,000 (exempt investment adviser)	SFC (Fees) Rules, Sch 1: 5(a)  5(b)
37.	Annual fee payable under section 138(1) of the Ordinance by a registered institution, for each type of regulated activity for which it is registered	35,000	14,000 (exempt dealer)  7,000 (exempt investment adviser)	SFC (Fees) Rules, Sch 1: 6(a)  6(b)
38.	Fee payable on application by a registered institution under section 127 of the Ordinance to vary the regulated activity specified in the applicant's certificate of registration by adding any one additional type of regulated activity	23,500	23,500	SFC (Fees) Rules, Sch 1: 8(a)
39.	Fee payable on application by a registered institution under section 127 of the Ordinance to vary the regulated activity specified in the applicant's certificate of registration by removing any one type of regulated activity (unless ceasing to be registered for all types of regulated activity)	200	n/a	new
40.	Fee payable on application by a registered institution for the grant of a certificate of registration in the circumstances where the registered institution has substantially changed its particulars since the grant of its existing certificate	200	n/a	new
	<b><i>Miscellaneous fees</i></b>			
41.	Fee payable on application under section 130 of the Ordinance for approval of any premises for keeping records or documents required under the Ordinance	1,000	6,950	Application wider, but similar to LFET (Fees) Rules, Sch: 12
42.	Fee payable on application under section 132 of the Ordinance for approval to become or continue to be a substantial shareholder of a	3,000	6,950	Application wider, but similar to

<sup>4</sup> Responsible directors of Leveraged Foreign Exchange Traders are currently only required to pay annual fees as representatives.

## Attachment 2

	corporation licensed under section 116 of the Ordinance			LFET (Fees) Rules, Sch: 18
43.	Fee payable on application under section 134(1) of the Ordinance for a modification or waiver in respect of -			
	(a) any condition specified in section 118 of the Ordinance or imposed under section 116, 117, 119, 120, 121, 126 or 132 or any of the requirements of s.121(2)(a) of the Ordinance	2,000	n/a	new
	(b) any of the requirements of sections 116(2)(b) and 125(1) and (2) of the Ordinance	2,000	n/a	new
	(c) any of the requirements of sections 116(2)(c) and 130 of the Ordinance	2,000	2,000	SFC (Fees) Rules, Sch 1: 26(e)
			6,950	LFET (Fees) Rule Sch: 7(b)
	(d) any of the requirements of section 129 of the Ordinance	4,000	6,950	Application wider, but similar to LFET (Fees) Rules, Sch: 7(a)
	(e) any of the requirements of rules made under section 145 of the Ordinance (except one relating to hedging or arbitrage programmes)	6,000	6,500	SFC (Fees) Rules, Sch 1: 24(a)
	(f) any of the requirements of rules made under section 145 of the Ordinance, relating to hedging or arbitrage programmes -			
	(i) where at least one side of the portfolio is less than \$10,000,000;	10,000	10,000	SFC (Fees) Rules, Sch 1: 24(c)(i)
	(ii) in any other case	20,000	20,000	SFC (Fees) Rules, Sch 1: 24(c)(ii)
	(g) any of the requirements of rules made under section 148 of the Ordinance	6,000	6,500	SFC (Fees) Rules, Sch 1: 26(c)-(cc)
	(h) any of the requirements of rules made under section 149 of the Ordinance	6,000	4,500	SFC (Fees) Rules, Sch 1: 26(da) & (db)
	(i) any of the requirements of rules made under section 151 of the Ordinance	6,000	6,500	Application wider, but similar to SFC (Fees) Rules, Sch 1: 31(d)
	(j) any of the requirements of rules made under section 152 of the Ordinance	6,000	6,500	Application wider, but similar to SFC (Fees) Rules, Sch 1: 31(d)
44.	Fee payable for renewal of a waiver or modification referred to in item 43(e), (f), (g), (h), (i) or (j)	4,000	4,500	Similar to SFC (Fees) Rules, Sch 1: 26(d)
45.	Fee payable on application under section 124(1) of the Ordinance for a duplicate	200	200	SFC (Fees) Rules, Sch 1:

## Attachment 2

	licence or certificate of registration			18
46.	Fee payable to obtain under section 136(5)(b) of the Ordinance a copy of an entry in, or extract of, a register maintained under section 136(1) of the Ordinance	9 per page	9 per page	SFC (Fees) Rules, Sch 1: 20
47.	Fee payable for certification of a copy of a document as a true copy under section 136(6)(b) of the Ordinance	200	200	SFC (Fees) Rules, Sch 1: 19
48.	Fee payable for a copy of a document for which no fee is otherwise specified in this Schedule	9 per page	9 per page	SFC (Fees) Rules, Sch 1: 20
	<b>Fees under Part VI of the Ordinance</b>			
49.	Fee payable on application for any approval for the purposes of rules made under section 145 of the Ordinance	6,000	4,900-7,500	SFC (Fees) Rules, Sch 1: 27
50.	Fee payable for renewal of an approval referred to in item [49]	4,000	n/a	new
51.	Fee payable on application for any approval for the purposes of rules made under section 148 of the Ordinance of any company or overseas company as suitable for safe custody of client securities and collateral	6,000	n/a	new
52.	Fee payable for renewal of an approval referred to in item [51]	4,000	n/a	new
53.	Fee payable on application for any approval of a person with whom segregated accounts can be established and maintained for the purposes of rules made under section 149 of the Ordinance	6,000	n/a	new
54.	Fee payable for renewal of an approval referred to in item [53]	4,000	n/a	new
55.	Fee payable on application by a licensed corporation or an associated entity of a licensed corporation -			
	(a) under section 155(3)(a) of the Ordinance, for approval to alter its financial year end	2,000	2,000	SFC (Fees) Rules, Sch 1: 22(a)
	(b) under section 155(3)(b) of the Ordinance, for approval to adopt a period exceeding 12 months as its financial year	2,000	2,000	Similar to SFC (Fees) Rules, Sch 1: 22(a) & (c)
	(c) for approval of the matters specified in paragraphs (a) and (b) on the same occasion	2,000	n/a	new
	(d) under section 156(4) of the Ordinance, for extension of the period within which to lodge the requisite documents	2,000	2,000	SFC (Fees) Rules, Sch 1: 22(b)
	<b>Fees under Part XV of the Ordinance</b>			
56.	Fee payable on application under section 309(2) or (3) of the Ordinance for an exemption from all or any of the provisions of Part XV of the Ordinance	24,000	24,000	SFC (Fees) Rules, Sch 1: 29
57.	Fee payable on application by a corporation under section [6] of the Securities and Futures (Disclosure of Interests – Securities	24,000	n/a	new

## Attachment 2

	Borrowing and Lending) Rules (L.N. of 2002) for approval as an approved lending agent			
	<b>Fees under the Companies Ordinance (Cap. 32)</b>			
58.	Fee payable on application for authorization for registration of a prospectus under the Companies Ordinance (Cap. 32) -			
	(a) in the case of rights issue prospectus	15,000	15,000	SFC (Fees) Rules, Sch 1: 28(a)
	(b) in the case of Eurobond issue prospectus	15,000	15,000	SFC (Fees) Rules, Sch 1: 28(b)
	(c) in the case of warrant issue prospectus	10,000	10,000	SFC (Fees) Rules, Sch 1: 28(c)
	(d) in the case of prospectus relating to interests in a collective investment scheme	nil	nil	SFC (Fees) Rules, Sch 1: 28(f)
	(e) in the case of any prospectus not referred to in paragraph (a), (b), (c) or (d), offering to the public for subscription or purchase for cash or other consideration, or calculated to invite offers by the public to subscribe for or purchase for cash or other consideration, any shares or debentures of a corporation that has been approved by a recognized exchange company for listing on a recognized stock market	30,000	30,000	SFC (Fees) Rules, Sch 1: 28(g)





SECURITIES AND  
FUTURES COMMISSION  
證券及期貨事務監察委員會

Annex 5

## Consultation Conclusions on the Securities and Futures (Fees) Rules

### 《證券及期貨(費用)規則》諮詢總結

Hong Kong  
Sept 2002

香港  
2002年9月

## **INTRODUCTION**

1. On 30 July 2002, the Securities and Futures Commission (“SFC”) published a Consultation Paper on the Securities and Futures (Fees) Rules (“Consultation Paper”).
2. The draft Rules require and provide for payment of fees to the SFC and to prescribe fees–
  - (a) for an application to the SFC under or pursuant to any of the relevant provisions;
  - (b) for anything done by the SFC or one of its committees in the performance of a function relating to takeovers and mergers or to share repurchases;
  - (c) for anything done by the SFC or one of its committees or the Monetary Authority in the performance of a function under any of the relevant provisions (other than the function referred to in (b) above); and
  - (d) for any other matter with regard to which provision is made by or under any of the relevant provisions.

The draft Rules also provide for payment to the SFC of fees and prescribe fees which the Securities and Futures Ordinance (“Ordinance”) provides are, or may be prescribed, specified or provided for by rules made under this section.

3. The consultation period ended on 24 August 2002.
4. It is advisable to read this document with the Consultation Paper itself as well as the Consultation Conclusion on Proposed Licensing Fees under the Securities and Futures (Fees) Rules.

## **CONSULTATION EXERCISE**

5. A press release regarding the consultation exercise was issued on 30 July 2002. The Consultation Paper and the draft Rules were posted on the website of the SFC and distributed to all registrants through FinNet.
6. In addition, letters were sent to the Hong Kong Investment Funds Association, the Hong Kong Association of Banks, Life Insurance Council of the Hong Kong Federation of Insurers and the relevant scheme sponsors highlighting the issues concerning the proposed single fees structure for all collective investment schemes as set out in the Consultation Paper and the draft Rules.

## **CONSULTATION CONCLUSIONS**

7. Two submissions were received regarding the proposed fees in respect of investment products, one each from CMG Asia Limited and Life Insurance Council of the Hong Kong Federation of Insurers. A summary of the comments from these two parties as well as the SFC’s responses are set out in the Attachment.

8. After the completion of the consultation exercise, it is considered that no amendment to the substance of the draft Rules is necessary. We have, however, refined the draft Rules to improve drafting where necessary.

***Fees in respect of corporate finance matters***

9. As stated in the Consultation Paper, there were no new policy initiatives or changes to fees in respect of corporate finance matters in the draft Rules. However, some amendments to the draft Rules will be made to better reflect the policy and existing practice.

***Fees in respect of investment products***

10. The SFC is empowered to authorize any collective investment scheme and the issue of any advertisement, invitation or document relating to different investment products under sections 104 and 105 of the Securities and Futures Ordinance (the “Ordinance”) respectively. The corresponding fees payable to the SFC are set out in Schedule 1 to the draft Rules.
11. The proposed fee levels are basically the same as those set out in the existing Securities and Futures Commission (Fees) Rules (the “existing Rules”) which have remained unchanged for the past 8 years or so. However, it is proposed under the draft Rules that a single fees structure be adopted for all collective investment schemes. This approach is consistent with the adoption of the single “collective investment scheme” notion under Part IV of the Ordinance.
12. As highlighted in the Consultation Paper and the responses to the comments received, it is the SFC’s intention to minimize the potential impact of the proposed single fees structure on different scheme sponsors. To that end, it is provided in the relevant provisions of the draft Rules that a fund which is already within or maintained by another authorized collective investment scheme would not be subject to additional charges. In addition, the SFC is also empowered under section 11 of the draft Rules to waive, in whole or in part, the payment of any fee prescribed for any person in special circumstances, if it is of the opinion that otherwise the fee would be unduly burdensome or inappropriate due to the particular nature of a product.

**Summary of comments received on the Draft Securities and Futures (Fees) Rules**

	<b>Section Reference</b>	<b>Details of the Rules</b>	<b>Respondent's Comments</b>	<b>SFC's Responses</b>
1	Items 2 to 4, Part 1, Schedule 1	Fees payable to the SFC for authorization of a collective investment scheme under section 104(1) of the Ordinance	CMG Asia Limited queried whether it would be more appropriate if the existing fees structure for their pooled retirement funds could be maintained given their own marketing strategies for these funds.	<p>The intention of the proposed single fees structure for all collective investment schemes is to streamline and rationalize the existing structures for different types of schemes which are in fact functionally similar in nature. As pooled retirement funds are collective investment schemes, the SFC considers it inappropriate to create a carve-out for these funds from the proposed structure.</p> <p>Nevertheless, the SFC is empowered under section 11 of the draft Rules to waive, in whole or in part, the payment of any fee prescribed for any person in</p>

				special circumstances, if it is of the opinion that otherwise the fee would be unduly burdensome or inappropriate due to the particular nature of the product.
2	Items 2 to 4, Part 1, Schedule 1	Fees payable to the SFC for authorization of a collective investment scheme under section 104(1) of the Ordinance	Life Insurance Council of the Hong Kong Federation of Insurers queried whether certain types of funds offered through investment-linked assurance schemes would be charged “twice” under the proposed single fees structure for all collective investment schemes.	<p>As provided in items 4 to 6 of Schedule 1 to the draft Rules, a fund which is already within or maintained by another authorized collective investment scheme would not be subject to additional charges. Given that, the SFC believes that such a fund would not be charged “twice”.</p> <p>Nevertheless, the SFC is empowered under section 11 of the draft Rules to waive, in whole or in part, the payment of any fee prescribed for any person in special circumstances, if it is of the opinion that otherwise the fee would be unduly burdensome or inappropriate due to the particular nature of a product.</p>

## List of Respondents

<b>Date received</b>	<b>Respondent</b>
23 August 2002	CMG Asia Limited
23 August 2002	Life Insurance Council of the Hong Kong Federation of Insurers