

**For information
on 24 October 2002**

Paper No. 45/02

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

Securities and Futures (Short Selling Exemption and Stock Lending) Rules

Introduction

When considering the draft Securities and Futures (Short Selling Exemption and Stock Lending) Rules on 15 July 2002, Members asked us to consult Linklaters and Alliance (L&A) as to whether clause 3 of the draft Rules had addressed its earlier concern.

Follow up action taken

2. Clause 3 of the draft Rules prescribes the classes of transactions that are exempted from the prohibition against short selling of securities. In commenting on the exposure draft of the Rules during the public consultation period, L&A expressed the view that apart from the Securities Market Makers and Futures Market Makers, offshore affiliates who hedge the position and use the relevant market maker merely to execute the trade should also be able to rely on the exemption. In response, the Securities and Futures Commission advised Members that the exemptions are intended to be available to any person who is registered with the Stock Exchange of Hong Kong Limited (SEHK) or the Hong Kong Futures Exchange Limited (HKFE) to perform market making or liquidity providing activities. These will include persons who may not be exchange participants but whom the relevant Exchange recognizes as performing market making or liquidity providing activities. The clause has been amended after public consultation to better reflect the intention that the exemptions are available to any person whom the SEHK or the HKFE recognizes as performing market making or liquidity providing activities.

3. As requested by Members, the SFC has further consulted L&A, which is content with clause 3 of the draft Rules.

Securities and Futures Commission
Financial Services and the Treasury Bureau
17 October 2002