

For information
on 24 October 2002

Paper No. 41/02

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

Securities and Futures (Professional Investor) Rules

Members asked at the Subcommittee meeting on 6 June 2002 whether the “relevant date” for calculating assets in foreign currency should be specified in clause 3 of the above Rules. Having considered the issue further, we are of the view that it is not necessary to do so.

2. The Rules provide that a person who has a certain level of assets falls within the definition of professional investor. The level of assets is ascertained by referring to that person’s audited financial statements, custodian statements or certificates issued by an auditor or accountant. All of these documents contain a valuation of assets as at a specific date. For example, a custodian statement from a bank states that the person has a certain amount in his account as at a certain date.

3. Whilst the value of foreign currency may fluctuate over a period of time, these fluctuations are usually not so extreme as to cause a person to fall outside (or to bring a person within) the scope of the professional investor definition except in occasional borderline cases. Accordingly, we do not feel that it is necessary to further define the relevant date for the purposes of calculating the value of assets which are held in foreign currency. This approach also serves to keep the Rules simple.

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