

**Subcommittee to Study the Proposed
Accountability System for Principal Officials and Related Issues**

**Resolution Under Section 54A of the
Interpretation and General Clauses Ordinance (Cap. 1)**

**Transfer of Statutory Functions
from Secretary for Financial Services
to Secretary for Financial Services and the Treasury**

Introduction

This paper sets out the transfer of statutory functions currently exercisable by the Secretary for Financial Services to the Secretary for Financial Services and the Treasury with effect from 1 July 2002.

The Resolution

2. The introduction of the accountability system will be accompanied by the reorganization of a number of policy bureaux. As a result, the Secretary for Financial Services and the Treasury will be responsible for matters relating to financial services and public finances. The relevant statutory functions currently vested in the Secretary for Financial Services and the Secretary for the Treasury will be transferred to the Secretary for Financial Services and the Treasury.

3. Paragraph 8(a) of the draft Resolution provides that statutory functions currently exercisable by the Secretary for Financial Services by virtue of the ordinances specified in column 2 of Schedule 8 to the Resolution be transferred to the Secretary for Financial Services and the Treasury. To give full effect to the Resolution, incidental, consequential and supplemental amendments, as appropriate, are introduced. Such amendments are provided for in paragraph 8(b) and Schedule 8 of the draft Resolution. Most of the amendments are to replace references to “Secretary for Financial Services” in the relevant ordinances with

references to “Secretary for Financial Services and the Treasury”. Paragraph 8 and Schedule 8 of the draft Resolution are attached at Annexes A and B respectively.

4. A summary of the major statutory functions of the Secretary for Financial Services under existing legislation and the textual amendments to the relevant ordinances is attached as Annex C.

Advice Sought

5. Members are invited to consider paragraph 8 and Schedule 8 of the draft Resolution.

**Statutory functions presently exercisable by Secretary for Financial Services (SFS)
to be transferred to Secretary for Financial Services and the Treasury (SFST)**

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 1 of Schedule 8	24 Securities and Futures Commission Ordinance	<p>This ordinance provides for the establishment of the Securities and Futures Commission and amends the law relating to dealing in securities and trading in futures contracts.</p> <p>Major function to be transferred from SFS to SFST is:</p> <ul style="list-style-type: none"> • power of access to information obtained by the Securities and Futures Commission in the course of discharging its statutory functions, provided that certain conditions are met 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 1. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provision is amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 2 of Schedule 8	29 Trustee Ordinance	<p>This ordinance amends the law relating to trustees.</p> <p>Major function to be transferred from SFS to SFST is:</p> <ul style="list-style-type: none"> • power to approve recognised credit rating agencies for the purpose of specifying authorised investments for the Ordinance 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 2. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provisions are amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provisions are amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 3 of Schedule 8	41 Insurance Companies Ordinance	<p>This ordinance regulates the insurance business and provides for the establishment of an Insurance Authority.</p> <p>Major functions to be transferred from SFS to SFST are:</p> <ul style="list-style-type: none"> • power of access to information relating to any insurer obtained by the Insurance Authority in the course of discharging its statutory functions, provided that certain conditions are met • power to approve regulations made by the Insurance Authority 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 3. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provisions are amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provisions are amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 4 of Schedule 8	41H Insurance Companies (Actuaries' Standards) Regulation	<p>This regulation prescribes professional standards to be complied with by an actuary.</p> <p>Major function to be transferred from SFS to SFST is:</p> <ul style="list-style-type: none"> • power to approve subsequent amendments to professional standards endorsed by the Actuarial Society of Hong Kong 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 4. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provision is amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 5 of Schedule 8	148 Gambling Ordinance	<p>This ordinance amends the law relating to gambling.</p> <p>Major function to be transferred from SFS to SFST is:</p> <ul style="list-style-type: none"> • power to specify contracts for differences to which the Ordinance shall apply. 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 5. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provision is amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 6 of Schedule 8	155 Banking Ordinance	<p>This ordinance regulates the banking and deposit-taking businesses, and provides for the supervision of authorised institutions.</p> <p>Major function to be transferred from SFS to SFST is:</p> <ul style="list-style-type: none"> • power of access to information obtained by the Hong Kong Monetary Authority in the course of discharging its statutory functions, provided that certain conditions are met 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 6. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provision is amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 7 of Schedule 8	163 Money Lenders Ordinance	<p>This ordinance provides for the control and regulation of money lenders and money-lending transactions, the appointment of a Registrar of Money Lenders and the licensing of persons engaged in the money-lending business.</p> <p>Major function to be transferred from SFS to SFST is:</p> <ul style="list-style-type: none"> • power of access to information obtained by the Registrar of Money Lenders in the course of discharging his statutory functions, provided that certain conditions are met 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 7. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provision is amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 8 of Schedule 8	316 Census and Statistics Ordinance	<p>This ordinance provides for the taking of a population census and the collection, compilation and publication of statistical information concerning Hong Kong.</p> <p>Major function to be transferred from SFS to SFST is:</p> <ul style="list-style-type: none"> • power to direct statistical surveys 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 8. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provision is amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 9 of Schedule 8	351 Exchanges (Special Levy) Ordinance	<p>This ordinance imposes special levies on transactions on the Commodity Exchange and Unified Exchange.</p> <p>Major functions to be transferred from SFS to SFST are:</p> <ul style="list-style-type: none"> • power to vary the amount or rate of special levies • power to make a suspension order relating to the payment of special levies • power to direct the trustee to dispose of the balance in the special levy fund 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 9. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The definition of “Secretary” in section 2 is repealed and substituted by ““Secretary” (局長) means the Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> <ul style="list-style-type: none"> (a) The definition of “財經事務局局長” in section 2 is repealed and substituted by ““局長” (Secretary) 指財經事務及庫務局局長”. (b) Other relevant provisions are amended by repealing “財經事務局局長” and substituting “局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 10 of Schedule 8	351A Exchanges (Special Levy) Rules	<p>These rules provide for the remission of levies and other related matters.</p> <p>Major function to be transferred from SFS to SFST is:</p> <ul style="list-style-type: none"> • power to be notified of the repayment of all loans made under the facility letters 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 10. • The provision requiring amendment has been marked-up. The amendment is as follows: <ul style="list-style-type: none"> - <u>Chinese text</u> The relevant provision is amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 11 of Schedule 8	361 Stock Exchanges Unification Ordinance	<p>This ordinance establishes a single, unified stock exchange in Hong Kong and provides for an Exchange Company to operate the Unified Exchange.</p> <p>Major function to be transferred from SFS to SFST is:</p> <ul style="list-style-type: none"> • power to repeal a particular subsection of the Ordinance 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 11. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provision is amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 12 of Schedule 8	426 Occupational Retirement Schemes Ordinance	<p>This ordinance establishes a registration system for certain occupational retirement schemes.</p> <p>Major function to be transferred from SFS to SFST is:</p> <ul style="list-style-type: none"> • power of access to information obtained by the Mandatory Provident Fund Schemes Authority in the course of discharging its statutory functions 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 12. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provision is amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 13 of Schedule 8	451 Leveraged Foreign Exchange Trading Ordinance	<p>This ordinance regulates leveraged foreign exchange trading.</p> <p>Major functions to be transferred from SFS to SFST are:</p> <ul style="list-style-type: none"> • power of access to information obtained by the Securities and Futures Commission in the course of discharging its statutory functions, provided that certain conditions are met • power to be consulted before the Securities and Futures Commission makes rules on the payment of fees and other charges 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 13. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provisions are amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provisions are amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 14 of Schedule 8	485 Mandatory Provident Fund Schemes Ordinance	<p>This ordinance provides for the establishment of non-governmental mandatory provident fund schemes and the registration of such schemes, and creates a Mandatory Provident Fund Schemes Authority to oversee the management of registered schemes.</p> <p>Major function to be transferred from SFS to SFST is:</p> <ul style="list-style-type: none"> • power of access to information obtained by the Mandatory Provident Fund Schemes Authority in the course of discharging its statutory functions, provided that certain conditions are met 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 14. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provision is amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 15 of Schedule 8	42 of 1999 Banking (Amendment) Ordinance 1999	<p>This ordinance amends the Banking Ordinance.</p> <p>Major function to be transferred from SFS to SFST is:</p> <ul style="list-style-type: none"> • power to appoint a commencement date for this ordinance 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 15. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provision is amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 16 of Schedule 8	20 of 2000 Securities (Margin Financing) (Amendment) Ordinance 2000	<p>This ordinance amends the Securities Ordinance to regulate securities margin financing and to provide for related matters.</p> <p>Major function to be transferred from SFS to SFST is:</p> <ul style="list-style-type: none"> • power to appoint a commencement date for this ordinance 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 16. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provision is amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 17 of Schedule 8	30 of 2000 Securities (Amendment) Ordinance 2000	<p>This ordinance amends the Securities Ordinance.</p> <p>Major function to be transferred from SFS to SFST is:</p> <ul style="list-style-type: none"> • power to appoint a commencement date for section 5 of this ordinance 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 17. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provisions is amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provisions is amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 18 of Schedule 8	32 of 2001 Banking (Amendment) Ordinance 2001	<p>This ordinance amends the Banking Ordinance</p> <p>Major function to be transferred from SFS to SFST is:</p> <ul style="list-style-type: none"> • power to appoint a commencement date for this ordinance 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 18. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provision is amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 19 of Schedule 8	5 of 2002 Securities and Futures Ordinance	<p>This ordinance consolidates and amends the law relating to securities and futures industry.</p> <p>Major functions to be transferred from SFS to SFST are:</p> <ul style="list-style-type: none"> • power to appoint a commencement date for the Ordinance • power of access to information obtained by the Securities and Futures Commission in the course of discharging its statutory functions, provided that certain conditions are met • power to appoint a day from which certain Ordinances shall be repealed • power to appoint members of the appeal panel as ordinary members in relation to a review • power to appoint a day as the appointed day for the purposes of three particular sections in Part 1 of Schedule 10 to the Ordinance 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 19. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provisions are amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provisions are amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 20 of Schedule 8	6 of 2002 Banking (Amendment) Ordinance 2002	<p>This ordinance amends the Banking Ordinance.</p> <p>Major function to be transferred from SFS to SFST is:</p> <ul style="list-style-type: none"> • power to appoint a commencement date for this ordinance 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Financial Services/財經事務局局長” and/or “the Secretary/局長” are reproduced at Appendix 20. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Financial Services” and substituting “Secretary for Financial Services and the Treasury”. - <u>Chinese text</u> The relevant provision is amended by repealing “財經事務局局長” and substituting “財經事務及庫務局局長”.