

LEGISLATIVE COUNCIL BRIEF

Securities and Futures Ordinance (Cap.571)

SECURITIES AND FUTURES (PRICE STABILIZING) (AMENDMENT) RULES 2003

INTRODUCTION

Pursuant to sections 282(2) and 306(2) of the Securities and Futures Ordinance (Cap. 571) (“SFO”), the Securities and Futures Commission (SFC) has made the Securities and Futures (Price Stabilizing) (Amendment) Rules (the Amendment Rules) at the **Annex**.

BACKGROUND

The current law

2. The Securities and Futures (Price Stabilizing) Rules (Cap.571W) (the Rules) which came into effect 1 April 2003, exclude price stabilizing action conducted in accordance with the Rules from the application of the market misconduct provisions in the SFO. They prescribe the circumstances in which the prices of certain securities offered to the public may be stabilized for a limited period and regulate such stabilizing action.

3. In order to facilitate global offerings¹, section 15 of the Rules provides that stabilizing action conducted overseas with a view to stabilizing the price of securities on the overseas market and effected in accordance with the stabilization rules in recognized jurisdictions specified in Schedule 4 to the Rules will not for the purpose of the SFO be regarded as market misconduct.

Reasons for making the Amendment Rules

4. The SFC has previously stated its intention to recognize certain overseas jurisdictions which provide similar regulatory safeguards against market manipulation for the purpose of section 15 as soon as possible once the Rules are made. Prior to the enactment of the Rules, the SFC informed both the market and the Subcommittee on Draft Subsidiary Legislation to be made under

¹ In global offerings, securities offered may be traded on an overseas market as well as in the Hong Kong market. Underwriters for the overseas portion of the offering may wish to conduct stabilization in the overseas market, which may affect the price of the securities traded on the Hong Kong market.

the SFO² that it proposed to specify the Financial Services Authority (FSA) in the United Kingdom (UK) and the Securities Exchange Commission in the United States (as the rules in these jurisdictions are on the whole, no less stringent than the Rules) once the necessary arrangements for mutual recognition were made.

5. The SFC has held discussions with the FSA regarding recognition by it of the Rules. In July 2003, the FSA proposed to grant recognition of the Rules by making the necessary amendments to the UK Price Stabilizing Rules. Following the procedures necessary in the UK for rule amendments, including that of a public consultation under UK law, we anticipate that recognition by the FSA of the Rules will be granted in the near future. On 8 July 2003, the FSA wrote to the SFC seeking recognition by the SFC of the UK Price Stabilising Rules pursuant to section 15 of the Rules. Accordingly, the SFC has made the Amendment Rules including the UK as a recognized jurisdiction for the purposes of section 15 of the Rules.

6. In accordance with sections 282(2) and 306(2) of the SFO, the SFC has consulted the Financial Secretary.

THE AMENDMENT RULES

7. Clause 2 of the Amendment Rules amends Schedule 4 to the Rules by adding the reference “The Price Stabilising Rules, chapter 2 of the Market Conduct sourcebook made by the Financial Services Authority, United Kingdom, under section 144 of the Financial Services and Markets Act 2000” thereby providing that any stabilizing action taken for the purpose of stabilizing relevant securities on a stock market in the UK in compliance with the UK Price Stabilising Rules made by the FSA will be regarded as being in compliance with the Rules.

PUBLIC CONSULTATION

8. The SFC released a consultation document on the Amendment Rules on 18 July 2003, for comments by the public. A total of 2 submissions were received. Both submissions were supportive of the recognition of the UK rules. The SFC has considered all the comments received and is of the view that no amendments should be made to the draft Amendment Rules.

² On 22 February 2002, the House Committee of the Legislative Council established the Subcommittee on Draft Subsidiary Legislation to be made under the SFO to study the subsidiary legislation necessary for commencing the SFO.

FINANCIAL AND STAFFING IMPLICATIONS

9. There are no financial or staffing implications for the Government.

COMMENCEMENT DATE

10. The commencement date for the Amendment Rules will be 6 February, 2004.

PUBLICITY

11. The Amendment Rules will be published in the Gazette on 12 December, 2003. A press release will be issued on the same day.

ENQUIRIES

12. For any enquiries on this brief, please contact Ms Daisy Lai of the Corporate Finance Division of the SFC at 2283 6816 or Ms Mary Ahern of the Legal Services Division of the SFC at 2283 6809.

The Securities and Futures Commission
9 December, 2003.

**SECURITIES AND FUTURES (PRICE STABILIZING)
(AMENDMENT) RULES 2003**

(Made by the Securities and Futures Commission under sections 282 and 306 of the Securities and Futures Ordinance (Cap.571) after consultation with the Financial Secretary)

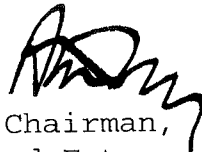
1. Commencement

These Rules shall come into operation on 6 February 2004.

2. Overseas stabilization

Schedule 4 to the Securities and Futures (Price Stabilizing) Rules (Cap. 571 sub. leg. W) is amended by adding -

"Item	Specified provisions	Specified body or authority which made the specified provisions
1.	The Price Stabilising Rules, chapter 2 of the Market Conduct Sourcebook	Financial Services Authority, United Kingdom".


Chairman,
Securities and Futures Commission

8 December 2003

Explanatory Note

These Rules amend Schedule 4 to the Securities and Futures (Price Stabilizing) Rules (Cap. 571 sub. leg. W) by adding to the Schedule the Price Stabilising Rules made by the Financial Services Authority, United Kingdom as the provisions specified for the purposes of section 15(1) of the Rules.