

L.N. 197 of 2005**SECURITIES AND FUTURES ORDINANCE (AMENDMENT OF SCHEDULE 5) NOTICE 2005**

(Made by the Financial Secretary under section 142 of the Securities and Futures Ordinance (Cap. 571))

1. Commencement

This Notice shall come into operation on 6 January 2006.

2. Regulated activities

Part 2 of Schedule 5 to the Securities and Futures Ordinance (Cap. 571) is amended—

- (a) in the definition of “advising on futures contracts”, by adding—
 - “(iva) a person—
 - (A) who is licensed or registered for Type 9 regulated activity;
 - (B) who provides a service of managing a portfolio of futures contracts under a collective investment scheme for another person; and
 - (C) who gives such advice or issues such analyses or reports solely for the purposes of providing the service described in subparagraph (B);”;
- (b) in the definition of “advising on securities”, by adding—
 - “(iva) a person—
 - (A) who is licensed or registered for Type 9 regulated activity;
 - (B) who provides a service of managing a portfolio of securities under a collective investment scheme for another person; and
 - (C) who gives such advice or issues such analyses or reports solely for the purposes of providing the service described in subparagraph (B);”;
- (c) in the definition of “asset management”—
 - (i) by repealing ““asset management” (資產管理)” and substituting ““securities or futures contracts management” (證券或期貨合約管理)”;

- (ii) in paragraph (h), by repealing the semicolon and substituting a full stop;
- (d) in the definition of “dealing in securities”—
 - (i) in paragraph (xiii), by repealing “or” at the end;
 - (ii) in paragraph (xiv), by adding “or” at the end;
 - (iii) by adding—
 - “(xv) in any case where each of the parties to the transaction or proposed transaction under which securities are or will be acquired, disposed of, subscribed for or underwritten as described in paragraph (a) is an authorized financial institution, is an approved money broker within the meaning of section 2(1) of the Banking Ordinance (Cap. 155) and performs the act for each of the parties to the transaction or proposed transaction;”;
- (e) in the definition of “securities margin financing”, in paragraph (vii), by repealing the full stop and substituting a semicolon;
- (f) by adding—
 - ““asset management” (資產管理) means—
 - (a) real estate investment scheme management;
 - or
 - (b) securities or futures contracts management;
 - “real estate investment scheme management” (房地產投資計劃管理), in relation to a person, means providing a service of operating a collective investment scheme for another person by the person, where—
 - (a) the property that is being managed under the scheme consists primarily of immovable property; and
 - (b) the scheme is authorized under section 104 of this Ordinance;”.

Henry TANG
Financial Secretary

3 November 2005

Explanatory Note

This Notice amends Part 2 of Schedule 5 to the Securities and Futures Ordinance (Cap. 571) as follows—

- (a) the definitions of “advising on futures contracts” and “advising on securities” are amended so that the giving of advice by a person, who is licensed or registered for Type 9 regulated activity, solely for the purposes of carrying on securities or futures contracts management, as the case may be, under a collective investment scheme is to be excluded from the definitions;
- (b) the definition of “asset management” is amended to become “securities or futures contracts management” and a new definition of “real estate investment scheme management” is introduced. These 2 kinds of investment management then constitute the newly defined “asset management”; and
- (c) the definition of “dealing in securities” is amended so that in a case where all parties to the dealing concerned are authorized financial institutions and the dealing is by an approved money broker who represents each of the parties concerned, the dealing is to be excluded from the definition.