



SECURITIES AND
FUTURES COMMISSION
證券及期貨事務監察委員會



HONG KONG MONETARY AUTHORITY
香港金融管理局

小組委員會文件編號 SC(1)-S1-附錄 10
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Memorandum of Understanding

between

the Securities and Futures Commission

and

the Hong Kong Monetary Authority



SECURITIES AND
FUTURES COMMISSION
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HONG KONG MONETARY AUTHORITY
香港金融管理局

Memorandum of Understanding

between

the Securities and Futures Commission and the Hong Kong Monetary Authority

I PURPOSES

1. This Memorandum of Understanding ("MoU") aims to:-
 - (a) replace and supersede the previous MoU, signed on 23 October 1995, between the Securities and Futures Commission ("SFC") and the Hong Kong Monetary Authority ("HKMA") (each referred to as a "party", together as "parties"), in view of the new regulatory regime to be implemented under the Securities and Futures Ordinance (Cap.571) ("SFO") and the Banking Ordinance (Cap.155) ("BO") as amended by the Banking (Amendment) Ordinance 2002 (6 of 2002) ("BAO 2002");
 - (b) set out the roles and responsibilities of the SFC and the HKMA, respectively, under each major functional aspect of the new regulatory regime as well as the arrangements between the parties in relation to the exchange of relevant information and notification or referral of relevant matters;
 - (c) achieve the regulatory objective that all intermediaries carrying out regulated activities in Hong Kong are subject to consistent regulatory measures, irrespective of whether they are supervised by the SFC or the HKMA; and
 - (d) strengthen co-operation between the SFC and the HKMA.

II DEFINITION OF TERMS

2. Unless otherwise specified, terms defined in the SFO and the BAO 2002 bear the same meaning when used in this MoU.



III PRINCIPLES

3. The parties will use their best endeavours to meet the terms of this MoU. Also, each party will make reasonable efforts to ensure that the other party is provided with all relevant information so that the parties may effectively perform their respective statutory functions.
4. In addition, the parties recognise the following overriding principles:-
 - (a) this MoU, of which Annex A and Annex B are an integral part, does not modify or supersede any law or regulation;
 - (b) this MoU does not detract from the statutory functions of the parties;
 - (c) this MoU does not amount to a delegation of any of the powers, duties and obligations of the parties;
 - (d) this MoU does not create any rights, obligations or liabilities, enforceable by the parties or by any third party; and
 - (e) this MoU does not affect any arrangements under any other MoU that either party has entered into or may enter into with any other party.

and this MoU shall be construed accordingly.

IV SCOPE

5.1 Under the SFO:-

- (a) authorized financial institutions ("AIs") carrying on regulated activities in Hong Kong must be registered by the SFC ("registered institutions") and are then, together with their associated entities, supervised by the HKMA and otherwise regulated jointly by the SFC and the HKMA;
- (b) other intermediaries carrying on regulated activities in Hong Kong must be licensed by the SFC and, together with their associated entities, are then regulated solely by the SFC.



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5.2 This MoU:-

- (a) sets out the regulatory and supervisory roles and responsibilities of the parties, respectively, with regard to registered institutions and their associated entities as well as AIs that are associated entities of intermediaries;
- (b) establishes the channels and mechanism for the exchange of information between the parties; and
- (c) addresses relevant staff training and development matters.

V RESPECTIVE ROLES WITH REGARD TO THE REGULATED ACTIVITIES OF REGISTERED INSTITUTIONS

6. Registration

6.1 *Granting Certificates of Registration*

- 6.1.1 The SFC is responsible for granting or refusing applications by AIs to be registered to carry on a regulated activity. All such applications received by the SFC will be referred to the HKMA for consideration.
- 6.1.2 The HKMA will consult the SFC on the merits of any such application and will advise the SFC whether it is satisfied that the applicant is fit and proper to be so registered. In considering whether an applicant is fit and proper to be registered, the HKMA will take into account:-
 - (a) the factors set out in section 129 of the SFO; and
 - (b) any relevant rules, codes, guidelines or guidance made or published by the SFC under the SFO.
- 6.1.3 The parties will endeavour to ensure that the referral and consultation process is as expeditious as possible and that the approach adopted in processing applications for registration is consistent with that adopted in processing licence applications.
- 6.1.4 For the purposes of clause 6.1.3, the parties will follow the procedures set out at Annex A.

6.1.5 The SFC will have regard to the HKMA's advice, referred to in clause 6.1.2, and may rely wholly or partly on it in deciding whether or not to register an applicant.

6.1.6 The SFC will consult the HKMA before imposing any conditions on the registration of a registered institution. The SFC will also consult the HKMA before exercising its power to amend or revoke any condition of registration or to impose any new condition on such registration.

6.1.7 The parties will maintain a close dialogue throughout the application process and ensure that a sufficient record of their communications in this regard is maintained.

6.2 *Giving Consent to the Appointment of Executive Officers*

6.2.1 The HKMA is responsible for giving or refusing to give consent to individuals to be executive officers of registered institutions.

6.2.2 In so deciding, the HKMA will consider:-

- (a) whether an individual concerned is fit and proper for the purpose, taking into account the factors set out in section 129 of the SFO and any relevant rules, codes, guidelines or guidance made or published by the SFC; and
- (b) whether the individual has sufficient authority within the relevant registered institution to be such an executive officer.

6.3 *Maintaining Registers*

6.3.1 The SFC is responsible for maintaining a register of licensed persons and registered institutions, which includes, among other things, details of the responsible officers of licensed corporations and of the executive officers of registered institutions and for making such register available for public inspection.

6.3.2 The HKMA is responsible for maintaining a register of individuals ("relevant individuals") who perform any regulated function in any regulated activity for or on behalf of a registered institution and for making such register available for public inspection.

- 6.3.3 The parties will co-ordinate to ensure that information kept on one party's register tallies in all relevant respects with information kept on the other party's register.

7. Regulatory and Supervisory Processes

7.1 *Making of Rules, Publication of Codes and Guidelines*

- 7.1.1 The SFC is responsible for making rules and publishing codes and guidelines under the SFO, for providing guidance, amongst other things, in relation to the practices and standards with which intermediaries are expected to comply in carrying on their regulated activities. The SFC will state explicitly in such rules, codes and guidelines the extent to which they apply to registered institutions and their associated entities as well as AIs that are associated entities of intermediaries.
- 7.1.2 The SFC will consult the HKMA before making, publishing or amending any such rules, codes or guidelines, in so far as they apply to AIs by reason of their being registered institutions or associated entities of intermediaries.
- 7.1.3 The HKMA will consult the SFC regarding guidelines it proposes to make or issue under the BO, in so far as such guidelines apply to registered institutions in relation to the carrying on of their regulated activities.

7.2 *Exercising Supervisory Functions*

- 7.2.1 The HKMA is the frontline supervisor of registered institutions. It is responsible for the day-to-day supervision of the carrying on of regulated activities by registered institutions. This includes:-
- (a) performing, in a manner comparable to that adopted by the SFC in relation to licensed corporations, on-site inspections of registered institutions and, where appropriate, their associated entities and related corporations to ascertain their compliance with applicable legal and regulatory requirements;

- (b) conducting off-site reviews, including analysis of information submitted by registered institutions as well as other data collected on an ad hoc basis;
 - (c) conducting background checks on any individual as appropriate before giving consent to his being an executive officer of a registered institution or otherwise entering his particulars in the register referred to in clause 6.3.2;
 - (d) handling, in accordance with the procedures set out under clause 8, complaints relating to the carrying on of any regulated activities by registered institutions;
 - (e) where appropriate, issuing guidelines or guidance notes to elaborate on the application of the SFO and the BO, as well as the rules, codes, guidelines and other guidance made or published by the SFC, to the carrying on of regulated activities by registered institutions; and
 - (f) where appropriate, authorizing any person under section 180 of the SFO to conduct an inspection of a registered institution, or any of its associated entities or any related corporation of either.
- 7.2.2 The HKMA will serve as the first point of contact for registered institutions and handle enquiries from registered institutions and their associated entities and their staff in relation to the supervision of regulated activities.
- 7.2.3 In interpreting the rules, codes, guidelines and other guidance made or published by the SFC, the HKMA will, where appropriate, consult the SFC and draw reference from the experience of the SFC in applying such requirements to licensed persons.
- 7.2.4 In performing any of its functions in relation to any registered institution or any of its associated entities, or an AI which is an associated entity of an intermediary, the SFC may rely, in whole or in part, on the supervision of that AI or entity by the HKMA. The parties will maintain a close dialogue in relation to such supervision carried out by the HKMA.

- 7.2.5 Where the SFC exercises its powers of supervision under section 180 of the SFO, it will use its best endeavours to ensure that the authorized person consults the HKMA before exercising any such powers in relation to any associated entity or related corporation that is an AI, or, is to the knowledge of the authorized person (a) a controller of an AI, (b) has as its controller an AI or (c) has a controller that is also a controller of an AI.

8. Complaints

- 8.1 If the SFC receives a complaint concerning (a) any registered institution, (b) any executive officer of a registered institution, (c) any member of the management of a registered institution involved in the carrying on by it of a regulated activity or (d) any staff of a registered institution whose name appears in the register referred to in clause 6.3.2, the SFC will refer the complaint to the HKMA as soon as reasonably practicable. If the SFC considers that the subject of the complaint is relevant to a matter that the SFC can investigate under section 182 of the SFO, the SFC will inform the HKMA of its opinion at the time it passes a copy of the complaint to the HKMA.
- 8.2 The HKMA will look into every complaint relating to a registered institution that it receives, whether referred by the SFC or not. Whenever a complaint is considered by the HKMA to be relevant to a matter that the SFC can investigate under section 182 of the SFO, the HKMA will refer such complaint to the SFC as soon as reasonably practicable.
- 8.3 Where considered by the HKMA to be appropriate, the HKMA will refer to the SFC as soon as reasonably practicable those complaints against AIs that appear to relate to the SFC's functions under the SFO, including those complaints that appear relevant to any matter about which the SFC can inquire under section 179 of the SFO.
- 8.4 The parties will consult one another as appropriate in relation to complaints, having regard to their statutory functions under the SFO and the BO and the provisions of this MoU

9. Investigations

9.1 If the HKMA, in the exercise of its supervisory functions over the regulated activities of registered institutions or over their associated entities or relevant individuals, considers it appropriate for the HKMA to open a case for investigation in accordance with the HKMA's internal procedures, it will:-

- (a) notify the SFC as soon as reasonably practicable;
- (b) keep the SFC informed of the progress of the investigation, especially when the HKMA envisages that the SFC's assistance to conduct an investigation under section 182 of the SFO may be needed;
- (c) after completing and analyzing the investigation report, forward a copy to the SFC together with a covering letter to the SFC stating the HKMA's conclusions with regard to the investigation; and
- (d) throughout the process, keep in mind the need to report the matter to the SFC before completing its investigation if, having regard to its and the SFC's respective functions under BO and SFO, or having regard to the details of information gathering powers that need to be exercised or whether the SFC is already investigating a related matter, it is more appropriate that the matter be passed on to the SFC. The HKMA will bring such matters to the SFC's attention as soon as reasonably practicable and the HKMA and SFC will consult as appropriate over how best to deal with them.

9.2 The SFC will consult the HKMA before exercising its power to initiate an investigation under section 182(1)(e) of the SFO where:-

- (a) in the case of section 182(1)(e)(i), the investigation is for the purpose of considering whether to:-
 - (i) suspend or revoke, either partially or wholly, a registered institution's registration; or
 - (ii) reprimand, fine or issue a prohibition order against a registered institution, any of its executive officers, any member of its management involved in the carrying on of any regulated activity by it or any of its staff whose name appears in the register referred to in clause 6.3.2; or

(b) in the case of section 182(1)(e)(ii), the investigation is for the purpose of assisting the HKMA to consider whether to:-

- (i) withdraw or suspend any consent given to a person to be an executive officer of a registered institution; or
- (ii) remove or suspend the particulars of a person from the register referred to in clause 6.3.2.

9.3 The SFC will share with the HKMA the findings of any investigation referred to in clause 9.2.

10. Disciplinary actions

10.1 Each party may make recommendations to the other in respect of the other's exercise of its disciplinary powers over an executive officer, or any other individual whose name appears in the register referred to in clause 6.3.2.

10.2 The SFC will consult the HKMA before exercising its power to:-

- (a) suspend or revoke, either partially or wholly, a registered institution's registration; or
- (b) reprimand, fine or issue a prohibition order against a registered institution, any of its executive officers, any member of its management involved in the carrying on of a regulated activity by it or any of its staff whose name appears in the register referred to in clause 6.3.2.

10.3 The HKMA will consult the SFC before exercising its power to:-

- (a) withdraw or suspend any consent given to a person to be an executive officer of a registered institution; or
- (b) remove or suspend the name of a person from the register referred to in clause 6.3.2.

10.4 Each party will ensure that it maintains a sufficient record of all communications relating to the recommendations and consultations mentioned in clauses 10.1, 10.2 and 10.3.

11. Appeals

- 11.1 If an appeal is lodged with the Securities and Futures Appeals Tribunal against a decision of the SFC or the HKMA concerning a registered institution, any of its executive officers, any member of its management involved in the carrying on of a regulated activity by it, or any of its staff whose name appears in the register referred to in clause 6.3.2, each party will appoint a contact person to facilitate communications between the parties during the course of the appeal.
- 11.2 Where any such appeal is in respect of a decision of only one party, that party will conduct the appeal and, if appropriate, instruct external lawyers for this purpose. That party will also consult the other party as it considers appropriate during the course of the appeal.
- 11.3 If, during the course of an appeal referred to in clause 11.2, it appears to the party conducting the appeal that the Tribunal will, under section 218(4) of the SFO, substitute for the decision under appeal a decision that the relevant party had the power to make, the former will as soon as practicable inform the other and the parties will meet to discuss the conduct of the appeal.
- 11.4 Where any appeal referred to in clause 11.1, arises in respect of decisions of both parties, the parties will, after receiving the relevant review notices, meet to discuss the conduct of the appeal and liaise as necessary during the course of the appeal.

VI EXCHANGE OF INFORMATION

- 12.1 By virtue of section 378(3)(e) of the SFO and section 120(5)(fa) of the BO, each party may disclose to the other information concerning:-
- (a) the carrying on of regulated activities by registered institutions; and
 - (b) the receiving or holding of client assets by AIs which are associated entities of intermediaries.

Further, section 378(3)(e)(ii) of the SFO and section 120(5)(f) of the BO permit the SFC and the HKMA, respectively, to disclose information to each other where to do so will enable or assist the other to perform its functions and it is not contrary to the interest of the investing public/depositors or the public interest to make such disclosure.

- 12.2 The parties will each appoint a person or persons to be the principal point of contact between the parties for the exchange of information on a day-to-day basis depending on the regulatory function concerned, although the same person may be appointed as the point of contact in relation to more than one such function. Either party may change its principal points of contact by giving written notice to the other.
- 12.3 Where a party, in the course of performing its supervisory functions or otherwise, becomes aware of any matter described in Annex B as a "serious matter", it will as soon as reasonably practicable notify the other party of it. In particular, each party will, in accordance with Annex B, inform the other party upon becoming aware of any intermediary or associated entity supervised by it being in serious financial difficulties, and provide the other party with relevant information in its possession that will facilitate an assessment of the consequential impact (if any) on any intermediary or associated entity supervised by the other party. In urgent cases, initial notification will be made orally.
- 12.4 Each party will exchange prudential information on individual intermediaries, their associated entities and their staff (other than matters mentioned above) that will enable or assist the other party in the performance of its statutory functions. Such information will include, but is not limited to:-
- (a) business information;
 - (b) financial position;
 - (c) risk profiles;
 - (d) major corporate restructuring;
 - (e) substantial change in business operations;
 - (f) general supervisory concerns; and
 - (g) exercise of supervisory powers.
- 12.5 The SFC will provide the HKMA, on a semi-annual basis, lists of:-
- (a) AIs that are shareholders of licensed corporations;
 - (b) AIs that are associated entities of intermediaries; and
 - (c) associated entities of registered institutions.

- 12.6 In the course of any consultation prior to the exercise of disciplinary powers by either party, details of the matter or conduct in question will be exchanged between the parties. The parties will also share their experiences in dealing with similar cases in respect of licensed persons and registered institutions or relevant individuals.
- 12.7 The parties will hold regular meetings to discuss matters of mutual interest relating to the performance of their regulatory and supervisory functions. The parties will take turns to provide secretarial support for such meetings.

VII CONFIDENTIALITY AND USE OF INFORMATION

- 13.1 Any information exchanged between the parties under this MoU will be used by the recipient only for the purposes of performing its regulatory and supervisory functions, and, except as otherwise required by law, will not be disclosed to any third party without the prior consent of the party providing the information.
- 13.2 Each party will establish and maintain such safeguards as are necessary and appropriate to protect the confidentiality of such information.

VIII STAFF TRAINING AND DEVELOPMENT

- 14.1 Each party agrees to make arrangements for staff of the other party to attend its training programmes where relevant.
- 14.2 With a view to assisting each party's staff to better understand the supervisory role of the other party, secondment of staff between the parties will be considered.



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IX AMENDMENTS

- 15.1 Either party may at any time request the other party to agree to make a specific amendment, whether by supplement or otherwise, to this MoU, or may invite consultation with the other party regarding the need for any amendment or supplement to this MoU.
- 15.2 An amendment or supplement to this MoU takes effect only by written agreement of the parties.

SECURITIES AND FUTURES COMMISSION

HONG KONG MONETARY AUTHORITY

Andrew L T Sheng
Chairman

Joseph C K Yam
Chief Executive

Date: 12 December 2002

Annex A**REFERRAL AND CONSULTATION PROCEDURES****I Referral Procedures – Applications for Registration**

- 1.1 Upon receiving an application for registration by an AI, the SFC will conduct a first screening of the application to check if the correct forms and the required information have been submitted and the required fee has been paid.
- 1.2 If the application passes the first screening, the SFC will log the application and issue an acknowledgement letter to the applicant. The SFC will then, within 2 business days of receiving the application package, pass it to the HKMA for its consideration.
- 1.3 If the application fails the first screening, the SFC will, within 2 business days of receiving the application package, inform the applicant of the missing items, information or fee and, where the application is substantially incomplete, return the application to the applicant by registered mail drawing the applicant's attention to such matters. If the application is subsequently re-submitted, the SFC will again screen it in the manner described in paragraph 1.1. and paragraphs 1.2 and 1.3 will apply accordingly.

II Consultation Procedures**2. *Applications for Registration***

- 2.1 The consultation referred to in clause 6.1.2 of this MoU will be in writing and will include the issues, if any, on which the HKMA particularly wishes to seek the SFC's views. Should the SFC seek to clarify any of the matters included in such consultation or to elicit the HKMA's views on any relevant matter, it will do so in writing, in which case the HKMA will respond in writing. The parties may decide to hold meetings or otherwise additionally consult.

Annex A

2.2 The parties will maintain a constant dialogue with each other in respect of any applications referred to the HKMA, with a view to ensuring that:-

- (a) the consultation process is completed as expeditiously as possible; and
- (b) the approach adopted in considering an application for registration of an AI is consistent with the approach adopted in considering an application for a licence by a non-AI.

2.3 In general, the parties will work towards completing the consultation process described in paragraph 2.2 within 5 weeks from the day on which the HKMA receives the application package from the SFC.

3. *Conditions of Registration*

3.1 The consultation referred to in clause 6.1.6 of this MoU, regarding conditions of registration, will be in writing and the SFC will include, to the extent possible, a description of the basis and reasons for the proposed action. The parties may decide to hold meetings or otherwise additionally consult. The HKMA will notify the SFC in writing, within 3 weeks or such other time as may be agreed between the parties, of its views regarding the action proposed by the SFC.

4. *Making of Rules, Publication of Codes and Guidelines by the SFC*

4.1 The consultation referred to in clause 7.1.2 of this MoU, regarding rules, codes and guidelines to be made or published by the SFC, will be undertaken prior to the SFC finalizing a draft for public consultation of any rules which it proposes to make, or finalizing the draft of any codes or guidelines that it proposes to publish, under the SFO, or any amendment thereof. The SFC will provide a draft of the rules, codes or guidelines (as the case may be), or the amendment thereof, to the HKMA together with a description in writing of the purposes of the same and any change in policy behind the new draft or the amendment concerned. The HKMA will provide the SFC with its views in writing within a reasonable period of time. The parties may decide to hold meetings or otherwise additionally consult.

Annex A

- 4.2 The consultation referred to in clause 7.2.3 of this MoU, regarding interpretation by the HKMA of any rules, codes, guidelines or other guidance made or published by the SFC, will be undertaken by any means, and at such intervals, as the parties may agree.

5. ***Making of Guidelines by the HKMA***

- 5.1 The consultation referred to in clause 7.1.3 of this MoU, regarding guidelines to be made or issued by the HKMA, will be undertaken prior to the HKMA finalizing the draft for public consultation of the guidelines concerned. The HKMA will provide a draft of the guidelines and a description of any change in policy behind the new draft. The SFC will provide the HKMA with its views in writing within a reasonable period of time. The parties may decide to hold meetings or otherwise additionally consult.

6. ***Exercise of Supervisory Powers***

- 6.1 With a view to ensuring that the exercise of supervisory powers, and the methodology of selecting registered institutions and their associated entities to be inspected and the conduct of such inspections, is comparable to that of the SFC in relation to licensed corporations and their associated entities, the parties will maintain an open dialogue and will meet or otherwise consult as appropriate.
- 6.2 The consultation referred to in clause 7.2.5 of this MoU, regarding consultation with the HKMA by a person authorized by the SFC under section 180 of the SFO, will ordinarily be in writing. In urgent cases, the consultation may be undertaken orally.
- 6.3 The parties agree to exchange general information which the parties consider may be of assistance in the formulation of supervisory policy. Such information may include, but is not limited to, industry attributes and profile.

Annex A**III Advisory Procedures – Applications for Registration**

- 7.1 After consulting the SFC as set out in paragraphs 2.1, 2.2 and 2.3, and completing any necessary vetting procedures, the HKMA will form a view as to whether the applicant concerned is a fit and proper person to be registered for any regulated activity for which it has applied to be registered and advise the SFC in writing accordingly. In so advising the SFC, the HKMA will include a description of the basis and reasons for its view. The HKMA will endeavour to advise the SFC on the fitness and propeness of an applicant within 10 weeks of receiving the application.
- 7.2 Wherever possible, and subject to the HKMA having obtained satisfactory results to its vetting enquiries in time, the HKMA will endeavour to inform the SFC on its decision on the appointment of executive officers by the applicant at the same time as it advises the SFC in accordance with paragraph 7.1.

IV General

- 8.1 The parties recognize that the time frames specified in paragraphs 2.3 and 7.1 may not be achievable in every case. However, the parties agree that they will use their best endeavours to complete their consultations within the target time frame, and, in any event, as expeditiously as reasonably practicable.
- 8.2 The parties agree that in undertaking consultation as specified in this MoU, they will be guided by the principle that the primary objective of such consultation is to facilitate the parties to discharge their regulatory functions, respectively, more effectively, consistently and efficiently.



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Annex B

EXCHANGE OF INFORMATION

Designation of Serious Matters

For the purposes of clause 12.3 of this MoU, the parties designate the following matters as “serious matters”.

I For notification by the HKMA to the SFC:-

1. Planned exercise by the HKMA of any of the powers under section 52(1) of the Banking Ordinance in respect of an AI, or knowledge of exercise of material disciplinary measures by an overseas regulatory body against an AI, where the HKMA considers those actions will have a material adverse impact on the operations of intermediaries and/or the securities market.
2. Knowledge or belief of any material breach by:-
 - (a) a registered institution;
 - (b) any associated entity of a registered institution;
 - (c) an AI which is an associated entity of an intermediary;
 - (d) an executive officer;
 - (e) any member of the management of a registered institution who is involved in the carrying on of a regulated activity by it; or
 - (f) an individual whose name appears in the register referred to in clause 6.3.2 of this MoU.

of any applicable provision of the SFO or of any rules, codes, guidelines or guidance made or published by the SFC under the SFO, or of any condition of the registration of a registered institution or any condition of any approval given to such person.

3. Knowledge or belief of any material impropriety that might jeopardise the proper safeguard of client assets held by a registered institution or by any of its associated entities, or by an AI which is an associated entity of an intermediary.

Annex B

4. Knowledge or belief of any material failure in the operation or functioning of a registered institution's trading or settlement systems which might have a direct adverse impact on its regulated activities.
5. Knowledge or belief of any material impropriety on the part of any member of an AI's management, or any of its executive officers or relevant individuals which the HKMA considers might have a materially adverse impact on the business or operations of intermediaries and/or the securities market.
6. Knowledge or belief that a registered institution, any of its associated entities or an AI which is an associated entity of an intermediary, is in serious financial difficulties.
7. Knowledge of any material action by an AI to protect its position in relation to a client (which is a licensed corporation or an associated entity of such licensed corporation) including cancellation of banking facilities, freezing of bank accounts, and foreclosure of securities and other collateral pledged or re-pledged to it.

II For notification by the SFC to the HKMA:-

8. Planned exercise by the SFC of the powers under sections 204, 205 or 206 of the SFO to restrict the business of a licensed corporation or require a licensed corporation to handle property in a specified manner, where such restriction might be prejudicial to the interests of an AI as a client or a creditor of the licensed corporation.
9. Knowledge of material disciplinary measures imposed by a recognized exchange company, recognized exchange controller or a recognized clearing house in Hong Kong or by an overseas regulatory body against a licensed corporation of which an AI is an associated entity or knowledge of material breach of the rules of such exchange company, exchange controller or clearing house.
10. Knowledge or belief that a licensed corporation or an associated entity of a licensed corporation is in serious financial difficulties and the situation might be prejudicial to the interest of an AI as a client or a creditor of the licensed corporation or the associated entity.

Annex B

11. Knowledge or belief of any material breach by:-

- (a) a licensed corporation that has as its associated entity, an AI;
- (b) a licensed representative of the licensed corporation mentioned in (a);
or
- (c) any member of the management involved in the carrying on of a regulated activity by the licensed corporation mentioned in (a),

of the SFO or of any conditions applicable to such person by virtue of the SFO or any rules, codes, guidelines or guidance made or published under the SFO.

12. Knowledge or belief of any material failure in the operation or functioning of the trading or settlement systems of a licensed corporation of which an AI is an associated entity.
13. Knowledge or belief of any material impropriety on the part of any member of a licensed corporation's management, or any officer, employee or agent of such licensed corporation which the SFC considers might have a material adverse impact on the business or operations of a licensed corporation of which an AI is an associated entity.



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Addendum to the Memorandum of Understanding between the Securities and Futures Commission and the Hong Kong Monetary Authority dated 12 December 2002

The Securities and Futures Commission and the Hong Kong Monetary Authority have agreed to amend paragraph 1.2 of Annex A to the above Memorandum of Understanding as follows.

From:

- “1.2 If the application passes the first screening, the SFC will log the application and issue an acknowledgement letter to the applicant. The SFC will then, within 2 business days of receiving the application package, pass it to the HKMA for its consideration.”

To:

- “1.2 If the application passes the first screening, the SFC will log the application and issue an acknowledgement letter to the applicant. The SFC will then, within 7 business days of receiving the application package, pass it to the HKMA for its consideration.”

The above amendment has taken effect as from 1 March 2004.