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	Section: 193	Heading: Interpretation of Part IX	Version Date: 14/12/2007

#### PART IX

#### DISCIPLINE, ETC.

#### Division 1-Interpretation

(1) In this Part, unless the context otherwise requires-  
"misconduct" (失當行爲) means-

- (a) a contravention of any of the relevant provisions;
- (b) a contravention of any of the terms and conditions of any licence or registration under this Ordinance;
- (c) a contravention of any other condition imposed under or pursuant to any provision of this Ordinance, or of any condition attached or amended under section 71C(2)(b) or (9) or 71E(3) of the Banking Ordinance (Cap 155); or
- (d) an act or omission relating to the carrying on of any regulated activity for which a person is licensed or registered which, in the opinion of the Commission, is or is likely to be prejudicial to the interest of the investing public or to the public interest,

and "guilty of misconduct" (犯失當行爲) shall be construed accordingly;

"register of companies" (公司登記冊) means the register within the meaning of section 291 of the Companies Ordinance (Cap 32) or a register of non-Hong Kong companies kept under section 333AA of that Ordinance. (Added 30 of 2004 s. 3)  
(Amended 30 of 2004 s. 3)

(2) In this Part, where an intermediary is, or was at any time, guilty of misconduct within the meaning of paragraph (a), (b), (c) or (d) of the definition of "misconduct" in subsection (1) as a result of the commission of any conduct occurring with the consent or connivance of, or attributable to any neglect on the part of-

- (a) in the case of a licensed corporation, another person as-
  - (i) a responsible officer of the licensed corporation; or

- (ii) a person involved in the management of the business of the licensed corporation; or
- (b) in the case of a registered institution, another person as-
  - (i) an executive officer of the registered institution; or
  - (ii) a person involved in the management of the business constituting any regulated activity for which the registered institution is or was (as the case may be) registered,

the conduct shall also be regarded as misconduct on the part of that other person, and "guilty of misconduct" shall also be construed accordingly.

(3) For the purposes of paragraph (d) of the definition of "misconduct" in subsection (1), the Commission shall not form any opinion that any act or omission is or is likely to be prejudicial to the interest of the investing public or to the public interest, unless it has had regard to such of the provisions set out in any code of conduct published under section 169 or any code or guideline published under section 399 as are in force at the time of occurrence of, and applicable in relation to, the act or omission.

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