Bills Committee on Securities and Futures Bill and Banking (Amendment) Bill 2000

Summary of Public Comments and Administration's Response on Part IV of the Securities and Futures Bill

Clause no.	Respondent	Respondent's comments	Administration's response
Part IV – Offers of Investments			
General	HKAB	It is confusing that provisions relating to advertising, solicitation and communications are set out in various different Parts of the Bill. In particular Part IV relates to marketing of investments, and to misrepresentations inducing investment transactions, yet misrepresentations are also addressed in Parts X, XIII and XIV. Marketing is also addressed in Part VII (Clause 169 on unsolicited calls).	The SF Bill includes provisions dealing with misrepresentations relating to different matters in the respective Parts of the SF Bill which specifically address such matters. By way of illustration, Part IV deals with, in general, offers of securities, regulated investment agreements and collective investment schemes. Misrepresentations inducing others to invest in such instruments or products should naturally be covered in Part IV. As to the provisions concerning misrepresentations relating to market misconduct and dealings in securities, futures contracts or leveraged foreign exchange contracts, they should equally be covered in the relevant Parts, namely Parts XIII and XIV. As regards clause 169, it is related to the regulation of intermediaries' cold-calling activities. It seems natural to be covered in Part VII, which deals specifically with intermediaries' business conduct. For this reason, we shall propose a Committee Stage Amendment to relocate clause 108 to Part VII. Similarly, clause 208 which addresses public misstatements in general, will fit better in Part XVI and we shall propose a Committee Stage Amendment to this effect.
General	Law Society	Generally speaking, Part IV is not difficult to follow. However, the manner in which the definitions are presented leaves much to be desired. One will have to move constantly from place to place in the Bill to locate definitions.	The location of definitions follows accepted drafting practice: definitions of general application to the SF Bill are placed in Schedule 1; those applicable only to a particular Part are placed in the first clause of that Part whereas those applicable only to a particular clause are placed in that clause.
102	WOCOM	Clause 102 grants exemptions to licensed or exempt dealers in the issue of advertisements, invitations or documents relating to the offers of investments. Without the acquisition of Exchange Trading Rights, advertisements could be issued freely by exempt dealers and are not required to be approved by the Exchange and/or subject to the Rules of the Hong Kong Stock Exchange.	The Rules of the Hong Kong Stock Exchange referred to are relevant specifically to the issue of advertisements, etc made in respect of securities the listing of which has been approved by the relevant recognized exchange company; and exemption is granted under clause 102(3)(h) for those issued in compliance with the applicable requirements under the rules, irrespective of the identity of the issuer. Accordingly, "exempt dealers" should not be required to acquire Exchange Trading Rights for the reason set out in the market submission.

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		In order to level the playing field, exempt dealers should be required to acquire Exchange Trading Rights to perform regulated activity so that they will be equally regulated by the relevant rules and regulations of the Exchanges.	Clause 102(2)(a) has the effect of exempting an intermediary licensed or exempt by the SFC from the need for authorization to issue advertisements, etc in respect of securities, and is introduced in recognition of the fact that these regulated persons are already subject to the business conduct requirements under Part VII regarding such issue. This exemption ground is adopted from section 4(3)(a)(i) of the Protection of Investors Ordinance ("PIO").
102(2), 102(5) & 108	Law Society	It would be helpful in terms of the layout and format of the Bill if subsections 102(2), 102(5) and 108 expressly described what the different types of regulated activities are instead of referring to them as Type 1, Type 2 etc. If this suggestion is not accepted and the regulated activities are still referred to as "Types", then references in this section to "an intermediary licensed or exempt for Type 1.... regulated activity, or a representative of such intermediary" should be redrafted so that they are consistent with the drafting in Section 108 – i.e. "Type 1 intermediary or representative". In addition, the definition of the "Types" of intermediary or representative in Section 108 should be moved to Section 101, the interpretation section of Part IV.	To assign a type number to each of the regulated activities promotes brevity and clarity throughout the SF Bill and will facilitate reference whether in the legislation or usage in the trade. Through usage, it will be more user-friendly than a scheme requiring detailed description of each of the regulated activities wherever it is referred to. The shorthand reference to, for example, "Type 1 intermediary or representative" is introduced in clause 108 by means of a separate definition in the clause, for the reason that there will otherwise have to be repeated references in the clause to "an intermediary licensed or exempt for Type 1 regulated activity, or its representative that carries on Type 1 regulated activity for it". The same device is not adopted in clause 102 as there is no need for such undue repetition in the clause. We take the view it is thus not worth introducing six additional definitions in the clause to cover Types 1 to 6 intermediaries and their representatives.
102	Law Society	This subsection requires readers to cross refer to a number of definitions in Schedule 1 and also to refer to Sections 23 and 36. Generally, this subsection of the Bill should follow the comparable provision in the PIO (paragraph 4(2)(h)) which is much more straight forward.	The major differences between section 4(2)(h) of the PIO and clause 102(3)(h) of the SF Bill are that references to "Unified Exchange", "Exchange Company" and "rules of the Exchange Company governing the listing of securities" are respectively replaced by "a recognized stock market", "a recognized exchange company" and "rules made under section 23 or 36 governing the listing of securities". The first two substitutions to replace specific reference to the names of the existing stock market and its operator with the general categories they fall within help make the legislation more durable, and is in line with the method generally adopted in the SF Bill. As regards the last substitution, it follows the general drafting convention whereby the empowering provision is identified.

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102	Law Society	The exemption in paragraph 4(2)(fb) of the PIO should be repeated in the Bill.	Section 4(2)(fb) of the PIO that provides exemption as regards certificates of deposit issued by multilateral agency and overseas banks is indeed carried down in clause 102(3)(f) of the SF Bill.
102	Group of nine investment bankers	Although clause 102 only applies to the issue of advertisements, invitations or documents containing an invitation to the public, the meaning of "public" is unclear. The terms "issue" and "invitation" are defined extremely widely, to include an oral invitation made during any visit in person. Therefore, if a securities dealer has a meeting with an established customer, and proposes that the customer invest in a collective investment scheme not authorized by the SFC, this would possibly be regarded as issuing an invitation to the public for the purposes of Clause 102. On the basis such is not intended, further guidance would be welcome as to when marketing will be regarded as constituting marketing to the public.	The term "public" is defined in section 3 of Cap. 1 to include "any class of the public". Where appropriate, the SFC may issue guidelines on this issue. The offering of an unauthorized collective investment scheme by a securities dealer to a single customer as described in the illustration would generally not be regarded as falling within the ambit of clause 102. However, it should be emphasized that this is essentially a question of fact. The Court should remain the ultimate authority to interpret the relevant provisions and decide on whether a particular issue of advertisements, etc constitutes an invitation to the public after taking account of all particulars and circumstances of each case. Clause 102 has its origin in section 4 of the PIO in which the term "public" is not defined. The term "public" in section 92 of the Banking Ordinance that concerns issue of advertisements, etc relating to deposits is similarly not defined.
102	Group of nine investment bankers & HKAB	There is no safe harbour, for example, for securities offered to no more than 50 persons and/or for securities with a substantial minimum subscription level.	We have in the past received comments from the industry that if an offer is made to, for instance, less than 50 persons, such offer should not be considered as being made to the "public". We do not consider this appropriate as the addition of an arbitrary figure may be exploited for avoiding regulation. Furthermore, in the absence of any special relationships amongst the offerors and the offerees, or any special characteristics of the offerees manifesting their sophisticated or professional nature, the need for investor protection remains. We are sympathetic to the concern, and believe that new exemption for "professional investors" made by the SFC will effectively reduce the regulatory burden without compromising investor protection in this regard. By way of information, there is no such safe harbour as proposed in section 4 of the PIO. We also note that Regulation 7(2) of the Public Offer Securities Regulations in the UK, a comparable provision, includes no such safe harbour.

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102 & "professional investor"	HKAB & Group of nine investment bankers	Definition of professional investors may be extended by rules to be made under clause 384. This is in some respects narrower than the existing safe harbour in the PIO, which covers persons "whose business involves buying, selling or holding securities, whether as principal or agent". The definition of professional investors should be expanded to cover such persons, and also to cover individual investors of whose net worth exceeds a certain amount, to be specified in the definition.	"Professional investors" is defined in Schedule 1 to include a list of specified groups of persons with possible further extensions to be made by way of subsidiary legislation. As explained in paragraph 11 of Paper 4/01, future prescription by way of subsidiary legislation helps meet emerging market needs. The expression in current law that denotes a "professional investor" as a person whose business involves the acquisition, disposal or holding of securities is considered to be too wide. The policy view is that such a loose scope would inappropriately catch many persons whose business incidentally involves the acquisition, disposal or holding of securities and who are far from having the attributes of a "professional" with the expertise and knowledge to protect their own interests as an investor. Hence, the formula is rejected on investor protection ground. The intention is to include the net worth formula, or a variation of it, in the rules to be made for the purposes of the definition.
102(1)(a)(ii)	Group of nine investment bankers	The new definition of "regulated investment agreement" is extremely broad, and would seem wide enough to include any agreement for sale of an asset (for example, real estate or precious metals) bought with a view to capital growth. The reason for requiring the SFC's authorization for the marketing of "regulated investment agreements", unless the arrangements in question fall within the definition of "collective investment scheme", is not clear.	The new term is defined in Schedule 1 to the SF Bill to mean the same type of agreements referred to in section 3(1)(a)(ii) of the existing PIO. Protection afforded under the PIO is not limited to collective investment schemes only. There are other types of investment agreements, which if not regulated, may put investors at risk. Such agreements are retained in the general prohibition under clause 102 for proper investor protection.
102(3)(j)	Law Society	Although the exception for offers to professionals (paragraph 102(3)(j)) is a bit hard to find as it does not follow the format in the PIO it is appropriate for this exemption to be stated in its own paragraph as opposed to way it is presented in the PIO.	Noted.

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102(3)(h)	Law Society	Subsection 102(3)(h) should specifically refer to the SEHK as Hong Kong's exchange.	The clause as drafted is correct. Conceivably the recognized exchange company might in future have a different name from SEHK Ltd. Moreover, under clause 19(1) of the SF Bill, the Hong Kong Exchange Company may operate another stock market, subject to the recognition by the SFC.
102(13)	Law Society	The definitions in subsection 102(13) should be moved to subsection 101(1) so that the Bill is easier to navigate.	The location of the definitions referred to follows accepted drafting practice: definitions of general application to the SF Bill are placed in Schedule 1; those applicable only to a particular Part are placed in the first clause of that Part whereas those applicable only to a particular clause are placed in that clause.
102 & 109	WOCOM	The Bill has not covered all persons who engage in advising and recommending regulated activities, including, but not limited to, those journalists and emcees. It would be helpful if the Bill could consider newspaper articles, radio or TV programmes, etc. as advertisements, invitations or documents as governed by clause 102 so that such articles or programmes could be scrutinized under clause 109. Alternatively, the Bill should specifically stipulate that if such kinds of persons give investment advice and recommendation amounting to market misconduct or manipulation, they will be convicted of criminal offence, and be liable to pay compensation to the investors who follow their advice and suffer losses. In any event, those persons who give investment advice or recommendation must be licensed so that they will abide by the code of conduct and the rules.	We need to strike a balance in casting the regulatory net. We have in the definitions of "advising on corporate finance", "advising on securities" and "advising on futures contracts" excluded the advice given through a newspaper, magazine, etc which is made generally available to the public, or television broadcast, etc for reception by the public or a section of the public. This is in consideration of the fact that readers of the advice given in the contexts excluded should be able to judge the value and professionalism of the advice in perspective. The SFC would offer investor education in this aspect. It should, however, be noted that the aforesaid advice would still be subject to the various provisions governing misrepresentations (clauses 106 and 107) and market misconduct (clause 268). In addition, according to clause 102, journalists and emcees are generally prohibited from issuing any advertisement, invitation or document which contains an invitation to the public to acquire or dispose of securities unless they are "mere conduits" as described in clause 102(7) or (8).

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103(4) & 104(4)	Law Society	The scope of the SFC's powers under subsections 103(4) and 104(4) appears to be too broad and clarification is sought as to the recourse a collective investment scheme has if it believes that a condition imposed under this subsection is unreasonable.	It is necessary to confer on the SFC the right to vary the conditions imposed in granting an authorization to, among other things, cater for market development and changing circumstances. The decisions made under clauses 103(4) and 104(4) with respect to the variation of any condition of authorization are respectively included as items 8 and 10 in Part 2 of Schedule 7 to the SF Bill, i.e. they are specified as decisions against which a person may lodge an appeal with the Securities and Futures Appeals Tribunal.
107	Group of nine investment bankers	This clause goes considerably further than common law liability for misrepresentation. Compensation should only be payable for pecuniary losses that were within the reasonable contemplation of the parties at the time the misrepresentation was made and should also be restricted to cases where it was reasonable for the person to whom a representation was made to have relied on it and where compensation was fair, just and reasonable. These qualifications on the scope of the right of action are essential to guard against the risk of unmeritorious claims and potentially, unduly wide-ranging liability.	The Department of Justice has advised that the test of "reasonable contemplation of the parties" is applicable where the misrepresentation has become a term of the contract between the plaintiff and the defendant and the plaintiff is suing for breach of a contractual term. However, this may not always be the case for an action under clause 107. Further, where the plaintiff is suing for fraudulent misrepresentation, **all** losses directly flowing from the fraudulent inducement, whether or not such damage is reasonably foreseeable can be recovered. *(Doyle v Olby (Ironmongers) Ltd. [1969] 2 Q.B.158)* In addition, where the plaintiff is suing for negligent misrepresentation under section 3 of the Misrepresentation Ordinance, the measure of damages is the same as that for fraudulent misrepresentation. *(Royscou Trust v. Rogerson [1991] 2 Q.B.297, Long Year Development Ltd. V. Tse Fuk Man Norman and Ors (Ho Shiu Kawn Tony & Anor. Third Parties) [1991] 2 HKC 393).* In other words, the test of "fair, just and reasonable" which is the criteria for establishing a duty of care in actions based on the common law tort of negligent misstatements is not applicable to the above cases. In view of the above, it appears that it would be most appropriate for the provision to remain silent and leave it to the Courts to apply the relevant test for measure of damages, depending on the nature of the misrepresentation and the relationship between the plaintiff and the defendant. In particular, we do not think that by the mere absence of an express formula in clause 107 on the measure of damages, the Court will award whatever damages that may be claimed by the plaintiff irrespective of whether or not they are too remote.

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107(4) & (6)	Law Society	Subsections 107(4) and 107(6) appear to be inconsistent.	We do not think that subclauses (4) and (6) of clause 107 are inconsistent. Subclause (4) merely provides that clause 107 does not confer a right of action in any case to which section 40 of the Companies Ordinance applies. It does not in any way provide that the rights conferred on a person under section 40 of that Ordinance will be affected, limited or diminished. Hence, subclause (6) is entirely appropriate in conjunction with subclause (4).
108	Law Society	Type 4 intermediaries (i.e. investment advisers) should not be included in this section which deals with offers of securities. The comparable provision in the Securities Ordinance (Section 72) only relates to offers by dealers.	Clause 108 aims to impose certain disclosure requirements on intermediaries when they communicate an offer to acquire or dispose of securities. Under the new licensing regime, Type 4 intermediaries and representatives may, in carrying on the regulated activity of "advising on securities", communicate an offer to acquire or dispose of securities, for instance, when they give advice on the terms or conditions on which securities should be acquired or disposed of. See the exclusion at paragraph (xiii) of the definition of "dealing in securities".
108	HKAB	Clause 108 of the Bill extends the scope of the current Section 72 of the Securities Ordinance and will seriously constrain entirely proper communications between intermediaries and their clients.	We have carried down the existing exemption in respect of offers made by an exchange participant in the ordinary course of trading in a recognized stock market. In addition, we have introduced new exemptions under clause 108(5)(a) with respect to offers that are already regulated by the listing rules and the takeover code. These exemptions, plus that in clause 108(5)(a)(iii), seek to cover those offers of securities that are already subject to parallel regulation elsewhere. We have further exempted from the application of clause 108 those offers that are made to persons who already hold the securities in question, to certain persons who are existing "regular" clients of the intermediaries, and to professional investors (as defined in Schedule 1 to the SF Bill). It should also be noted that further appropriate exemptions can be provided by way of subsidiary legislation. We therefore take the view that the disclosure requirements as prescribed in clause 108 are appropriately applied for investor protection, and disagree that the clause imposes serious constraints on proper communications between intermediaries and their clients.
108	Group of nine investment	The "mischief" at which clause 108 is aimed is unclear.	The mischief at which clause 108 aims is to ensure that an investor is provided with an appropriate level of disclosure in offers of securities, irrespective of whether the offer amounts to a general offer.

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	bankers	If clause 108 cannot be redrafted more narrowly, there should at least be an exemption for offers relating to the purchase or sale of securities to take place on-exchange. There should also be an exemption for communications with an existing client, whether or not the person has acted on at least three transactions for the client in the preceding 3 years.	Please note that we have carried down the existing exemption in respect of offers made by an exchange participant in the ordinary course of trading on a recognized stock market. In addition, we have introduced new exemptions under clause 108(5)(a) with respect to offers that are already regulated by the listing rules and the takeover code. It should be noted that further appropriate exemptions can be provided for by way of subsidiary legislation pursuant to clause 108(5)(f) and (g). By way of illustration, where the SFC is satisfied that disapplying the disclosure requirements prescribed in clause 108 to transactions in certain financial products (such as one **traded** on-exchange) is appropriate from an investor protection perspective, it will accordingly make the exemption regulation. As to the condition of having 3 transactions in 3 years, it is designed, as in the case of its predecessor under the Securities Ordinance, to prevent staged transactions for avoiding the disclosure requirements.
108(5)(d)(i)	Group of nine investment bankers	The exemption in the White Bill (and in Section 72 of the Securities Ordinance) for offers made to a person whose business involves the acquisition, disposal or holding of securities, has been replaced by an exemption for offers to "professional investors". The definition of "professional investor" appears to be narrower in some respects than the category of "persons whose business involves the acquisition, disposal or holding of securities", and such exemption should be reinstated (as well as providing for an exemption for offers to persons falling within the current definition in the Bill of "professional investors").	The expression in current law that denotes a "professional investor" as a person whose business involves the acquisition, disposal or holding of securities is considered to be too wide. The policy view is that such a loose scope would inappropriately catch many persons whose business incidentally involves the acquisition, disposal or holding of securities and who are far from having the attributes of a "professional" with the expertise and knowledge to protect their own interests as an investor. Hence, the formula is rejected on investor protection grounds.
108(7)	Group of nine investment bankers	If there is a breach of Clause 108, the investor has a right to rescind the transaction within 14 days after the date on which he becomes aware that the offer was made without material compliance with Clause 108. This could mean that an investor seeks to rescind a transaction a long time after it took place (for example, because of subsequent market movements). If there is to be a right of rescission, we believe that (to create certainty) it should only apply within	The intention of clause 108(7) is to ensure a reasonable level of investor protection without unduly affecting the rights of intermediaries. On reflection, we agree to the market views on the uncertain period by reference to "awareness" and will propose a Committee Stage Amendment to allow an investor to rescind the acceptance within 28 days after the date of acceptance, or 7 days after the date on which he becomes aware the offer was made without material compliance with clause 108, whichever is the sooner.

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		14 days of acceptance of the offer (as under the existing Section 72 of the Securities Ordinance).	
109	Group of nine investment bankers	It appears there is no particular reason for clause 109 though it is an expansion of existing section 5 of the PIO.	Despite some overlap between clauses 109 and 114, clause 109 does cover certain additional situations which raise investor protection concerns. For example, a person issues an advertisement regarding another person as being prepared to carry on a regulated activity for which the latter is not licensed or exempt, whether with or without the latter's knowledge. As such, we take the view clause 109 should stay.
		If clause 109 is to remain in the Bill, it should be expressly limited to advertisements in which an unregulated person holds himself out as being prepared to carry on in Hong Kong the regulated activity for which he is not licensed or exempt.	Clause 109 is constructed in terms of the regulated activities as defined in Schedule 6 to the SF Bill which cover also the territorial application. Accordingly, there need not be any express reference of the territorial application in clause 109.
		There should be an exemption for Type 1 intermediaries, who are not licensed to conduct investment advisory activities, and are not exempt persons, but who are permitted to engage in investment advisory activities if wholly incidental to a securities dealing business.	As regards the exemption for Type 1 intermediaries (dealing in securities), we do not think that its inclusion in clause 109(2) is appropriate or necessary. It should be noted that there is no exclusion for Type 1 intermediaries in the definition of "advising on futures contracts" (Type 5 regulated activity). In other words, Type 1 intermediaries will not be allowed to advise on futures contracts. As for "advising on securities", the activities carried on by Type 1 intermediaries incidental to their dealing operations are excluded from the definition of "advising on securities". It follows that such activities are not caught under clause 109 in the first place and hence, no exemption is necessary. We shall propose a Committee Stage Amendment to permit a person licensed or exempted for dealing in securities to provide corporate finance advice wholly incidental to his securities dealing operation, by way of an exclusion to the definition of "advising on corporate finance" (Type 6 regulated activity). For the same reason given in respect of "advising on securities", no exemption is necessary.
		For consistency with clause 102, clause 109 should be restricted to advertisements issued to the public.	We do not agree that clause 109 should cover only advertisements issued to the public. The policy intent is to prohibit any person from advertising that they or another person are prepared to carry on a regulated activity without the requisite licence or exemption. Individual investors as much as the investing public should be protected from such activities.
109(8)	Law Society	Subclause 109(8) may not be necessary given that the word "issue" is defined in subsection 101(1) which applies to Part IV in its entirety.	Clause 109(8) has been introduced for the sake of clarity. There have been concerns that the definition of "issue" in clause 101(1) may not apply to the term "issuing" referred to in the phrase "issuing … materials provided to him by others" under clause 109(5)(a), as

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			"advertisement, invitation or document" is not referred to therein. Clause 109(8) puts it beyond doubt that the definition of "issue" applies to clause 109(5)(a). Clause 102(12) has the same effect with respect to clause 102(7)(a).
111(1)(b)(iii)	HKISD	Many of our market participants have not yet adopted e-mail system or properly maintain a e-mail system. Delivery of e-mail messages may not be properly received by the recipients.	Clause 111(1)(b)(iii) should be considered together with clauses 103(2)(b) and 104(2)(b) which require notification of contact details including, in so far as applicable, the electronic mail address. Where a person has notified the SFC of his electronic mail address as part of his contact details, he should properly maintain his electronic mail system and notify the SFC of any changes in those details. We thus consider it appropriate to regard under clause 111 (1)(b)(iii) delivery by electronic mail transmission according to the electronic mail address provided to the SFC as proper delivery.
Schedule 1 – Interpretation and General Provisions related to Part IV			
"collective investment scheme"	Law Society	"Collective investment scheme" is defined very broadly and should pick up most types of collective investment products not only unit trusts and mutual funds. The definition appears to borrow heavily from the UK legislation. The Government has chosen to follow the UK legislation when setting out the definition of "collective investment scheme", but not when limiting the definition's effect.	It is true that the definition of "collective investment scheme" is derived form the UK FSA 1986. However, there are investments available in the UK but not in HK, and vice versa. As such, it is impracticable, and inappropriate, to replicate just the UK exceptions to the definition of "collective investment scheme" under section 5(6) of the UK FSA 1986 into the definition of "collective investment schemes" under the Bill. In developing the definition and the exemptions, we have already taken into account the differences in the UK regulatory regime and that of Hong Kong From our past administrative experience, the existing exceptions should be adequate to restrict the scope of the definition to what is required to ensure proper investor protection in HK. In addition, it should be noted that the term "collective investment scheme" under the SF Bill replaces the current definition of "investment arrangements" under the PIO and has a more refined coverage. Moreover, we have also introduced some additional exceptions to it as compared with those currently available in the definition of "investment arrangements". Clause 380(2) further empowers the Financial Secretary to introduce additional exceptions to cater for market developments. This revised set of definition and exceptions, and the corresponding "updating" power is considered practical and an improvement on the existing regime.

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"professional investor" & "dealing in futures contracts and "dealing in securities"	Law Society	The category of persons "whose business involves the acquisition, disposal etc. of securities or futures" (and, we suggest, other financial products) should be included in the definition of "professional investors". This is particularly important in respect of the provisions relating to marketing and cold-calling, where the exemption in the current law is to be replaced by an exemption for marketing to "professional investors". As currently defined, this would not include all persons whose business involves the acquisition, disposal etc. of investments.	For the reasons given above in response to the HKAB and the Group of nine investment bankers on clause 102 regarding professional investor, we would propose a Committee Stage Amendment to remove the formulation in terms of a person whose business involves the acquisition or holding or disposal of securities from the definitions of "dealing in futures contracts" and "dealing in securities" as well.
"property"	HKSA	The definition of "property" should expressly include books and records.	The definition is based primarily on the definition of "property" in Cap. 1, which also makes no specific reference to books and records. The definition is an inclusive one and books and records are clearly property. We thus take that the view making specific reference thereto is not necessary.

Details of Submissions referred to in the Comment / Response Table

Date received	Organization / party
23 January 2001	Hong Kong Association of Banks ("HKAB")
23 January 2001, 15 February 2001	Linklaters & Alliance representing - Bear Stearns Asia Limited - Credit Suisse First Boston (Hong Kong) Limited - Dresdner Kleinwort Wasserstein - Goldman Sachs (Asia) L.L.C. - Merrill Lynch (Asia Pacific) Limited - JP Morgan - Morgan Stanley Dean Witter Asia Limited - Salomon Smith Barney Hong Kong Limited - UBS Warburg ("Group of nine investment bankers")
23 January 2001	Law Society of Hong Kong ("Law Society")
23 January 2001	Wocom Holdings Limited ("Wocom")
31 January 2001	Hong Kong Society of Accountants ("HKSA")
30 January 2001	Hong Kong Institute of Securities Dealers ("HKISD")

Securities and Futures Commission
Financial Services Bureau
7 June 2001