

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

**Response to “Supplement to the Comparison Table for Part V
(Annex B to LC Paper No.CB(1)569/00-01(01)) dated 10 February 2001”**

Clause no.	Response
117(1)(d)	<p>As regards the remarks of the Legal Service Division (“LSD”) that “the activities specified in the respective relevant schedules are not the same”</p> <p>We have explained in footnote 1 of Paper No.5/01 issued on 12 February 2001 that the differences are primarily drafting changes and the scope of the regulated activity of “securities margin financing” under the Securities and Futures Bill (the “SF Bill”) remains substantially the same as that under the Securities (Margin Financing) (Amendment) Ordinance.</p>
117(2)	<p>As regards the remarks of the LSD that “paragraph (h) of s.7(10) of the Leveraged Foreign Exchange Trading Ordinance is omitted”</p> <p>The provision referred to by the LSD concerns the scope of the rule-making power of the SFC to prescribe matters relevant to the establishment and functions of the arbitration panel, which is set up to deal with any dispute between a corporation licensed for leveraged foreign exchange trading and its client. The subject matter has indeed been covered under clause 117(2)(a) that reads “the establishment and functions of an arbitration panel and relevant matters”.</p>
133	<p>As regards the remarks of the LSD that “Previously all applications for registration are also open to inspection by members of the public”</p> <p>Under the Securities Ordinance (Cap.333) and the Commodities Trading Ordinance (Cap.250), members of the public can inspect in addition to the register, also the applications made to the SFC. In the more recently enacted legislation such as the Securities (Margin Financing) (Amendment) Ordinance and the Leveraged Foreign Exchange Trading Ordinance (Cap.451), inspection by the public is only restricted to the register. The same case is for the Banking Ordinance (Cap.155) and the Mandatory Provident Fund Schemes Ordinance (Cap.485). We consider it appropriate and sufficient to make available for inspection the register that sets out the essential information of the licensed and exempt persons.</p> <p>As regards the remarks of the LSD that in respect of the register maintained by the SFC, “there does not appear to be provisions for rectifying any inaccurate entries</p>

	<p>or any right to rectification of licensed persons”</p> <p>Under section 46(a) of Interpretation and General Clauses Ordinance (Cap.1), where any ordinance confers any person the power to maintain any register, the power shall include the power to amend the register. Under section 22 of the Personal Data (Privacy) Ordinance (Cap.486), persons referred to in the register would have the right to seek the rectification of inaccuracies in the register that relate to them. We therefore take the view that an express provision in the SF Bill is not necessary.</p>
<p>Schedule 6 Part II “leveraged foreign exchange trading”</p>	<p>Arising from the remarks of the LSD that ““an approved money broker within the meaning of section 2 of Banking Ordinance (Cap.155)” is replaced by “a member of the Hong Kong Foreign Exchange and Deposits Brokers Association” (para.(iv))”</p> <p>This is an inadvertent omission. To reflect in the SF Bill the update to the Leveraged Foreign Exchange Trading Ordinance in 1997, we shall propose Committee Stage Amendments to refer back to “an approved money broker within the meaning of section 2 of Banking Ordinance (Cap.155))” in paragraph (iv) of the definition.</p> <p>As regards the remarks that “3 new exclusions are added, i.e. para.(ix), (xii) & (xiv)”</p> <p>The new exclusions have been covered in paragraph 8 of Paper No.5/01 issued on 12 February 2001.</p>

Financial Services Bureau
22 February 2001