

For information
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Paper No. 44/02

**Subcommittee on Draft Subsidiary Legislation to be made
under the Securities and Futures Ordinance**

**Securities and Futures
(Leveraged Foreign Exchange Trading - Exemption) Rules**

At the Subcommittee meeting on 15 July 2002, we undertook to provide Members with a list of corporations currently engaged in leveraged foreign exchange trading activities which will qualify for exemption from taking out a licence under clause 4(2) of the draft Securities and Futures (Leveraged Foreign Exchange Trading - Exemption) Rules. These are corporations that have, or whose parent company has, a qualifying credit rating, provided that either (a) the principal business of the corporation is not in leveraged foreign exchange spot transactions; or (b) the average principal amount in each leveraged foreign exchange spot transaction entered into by the corporation is not less than \$7.8 million. A list of such corporations is at **Annex 1** for Members' reference.

2. Some Members also sought clarification as to how the above exemption works in actual operation. We attach at **Annex 2** a note prepared by the Securities and Futures Commission explaining its policy in this regard.

Securities and Futures Commission
Financial Services and the Treasury Bureau
17 October 2002

**List of corporations currently exempted under the
Leveraged Foreign Trading (Exemption) Rules (Cap. 451 Sub Leg E)
that would qualify for exemption under clause 4(2) of the draft Securities and Futures (Leveraged
Foreign Exchange Trading - Exemption) Rules**

(Position as at 30 September 2002)

No.	Name of Corporation
1	AIG Financial Products Hong Kong Ltd
2	Bear Stearns Asia Ltd 貝爾斯登亞洲有限公司
3	Clariden Asset Management (Hong Kong) Ltd
4	Credit Suisse First Boston International (Hong Kong) Ltd
5	Credit Suisse First Boston (Hong Kong) Ltd
6	Credit Suisse First Boston (Hong Kong) Securities Ltd
7	Credit Suisse First Boston
8	Mizuho Capital Markets (Hong Kong) Ltd 瑞穗資本市場(香港)有限公司
9	Goldman Sachs (Asia) Finance 高盛(亞洲)金融
10	Goldman Sachs (Asia) L.L.C. 高盛(亞洲)有限責任公司
11	HSBC Asset Management (Bahamas) Ltd
12	HSBC Asset Management (Hong Kong) Ltd 匯豐投資管理(香港)有限公司
13	HSBC Asset Management Securities (Hong Kong) Ltd
14	HSBC Investment Funds (Hong Kong) Ltd 匯豐投資基金(香港)有限公司
15	ING Securities Ltd 安銀證券有限公司
16	Lehman Brothers Asia Holdings Ltd 美國雷曼兄弟亞洲控股有限公司
17	Lehman Brothers Commercial Corp. Asia Ltd
18	Lehman Brothers Securities Asia Ltd 美國雷曼兄弟證券亞洲有限公司
19	JP Morgan International Bank Ltd
20	Merrill Lynch (Asia Pacific) Limited
21	Morgan Stanley Dean Witter Asia Ltd 摩根士丹利添惠亞洲有限公司
22	Nomura International (HK) Ltd
23	Northern Trust Company of HK Ltd 北美信託香港有限公司
24	Prudential-Bache Securities (Hong Kong) Ltd 美國培基證券有限公司
25	Salomon Smith Barney Hong Kong Futures Limited
26	Salomon Smith Barney Hong Kong Limited 所羅門美邦香港有限公司
27	UFJ Investment Asia Ltd UFJ 亞洲投資有限公司
28	UFJ International plc

Annex 2

At the Subcommittee meeting on 15 July 2002, Members asked how a corporation would know before the end of the financial year that it was able to satisfy the specified conditions and hence qualify for the exemption from obtaining a licence to conduct leveraged foreign exchange trading activities.

A corporation has to notify the SFC (four months after each financial year) that it satisfied the conditions for exemption. To do this it must show that it has, or its parent company has, a qualifying credit rating, and either-

- (a) the principal business of the corporation is not in leveraged foreign exchange spot transactions; or
- (b) the average principal amount in each leveraged foreign exchange spot transaction entered into by the corporation is \$7.8 million or more.

For condition (a) to be satisfied, a corporation simply has to ensure that any of its leveraged foreign exchange spot transactions are merely incidental to its main business.

Condition (b) is intended to provide an exemption for corporations dealing with non-retail investors. The threshold of \$7.8 million is a low one in terms of leveraged foreign exchange transactions undertaken in the non-retail market. Indeed the minimum order or “marketable amount” that will normally be accepted by exempted currency brokers is the equivalent of \$7.8 million (i.e. US\$ 1 million). A corporation that establishes a leveraged foreign exchange business should be able to know before hand whether its average transactional value would exceed the \$7.8 million threshold depending upon the client base that its business model is directed at. If it is in doubt whether the average value of the transactions will exceed the threshold it is likely that its business is directed at the retail end of the client base and it should seek to take out a licence rather than relying on the exemption.

The above arrangement has been in place for the past seven years and the industry accepts that it has worked well in practice.