

立法會
Legislative Council

LC Paper No. LS10/05-06

**Paper for the House Committee Meeting
on 18 November 2005**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 11 November 2005**

Date of Tabling in LegCo : 16 November 2005

Amendment to be made by : 14 December 2005 (or 11 January 2006 if extended by resolution)

Securities and Futures Ordinance (Cap. 571)
Securities and Futures Ordinance (Amendment of Schedule 5) Notice 2005 (L.N. 197)

Schedule 5 to the Securities and Futures Ordinance (Cap. 571) (“the Ordinance”) sets out, among other things, 9 types of activities regulated by the Securities and Futures Commission (“the Commission”) (under Part 1) and the related definitions concerning the licensing and registration matters of those regulated activities (under Part 2).

2. This Notice amends Part 2 of Schedule 5 to the Ordinance as follows
—

- (a) The definitions of “advising on futures contracts” and “advising on securities” are amended so that the giving of advice by a person, who is licensed or registered for Type 9 (asset management) regulated activity, solely for the purposes of carrying on securities or futures contracts management, as the case may be, under a collective investment scheme is to be excluded from the definitions;
- (b) The definition of “asset management”, which is a regulated activity, is amended to mean real estate investment scheme management or securities or futures contracts management. Consequently, a new definition of “real estate investment scheme management” and “securities or futures contracts management” is introduced respectively; and

- (c) The definition of “dealing in securities” is amended so that in a case where all parties to the dealing concerned are authorized financial institutions (as defined under Part 1 of Schedule 1 to the Ordinance) and the dealing is by an approved money broker (as defined under section 2(1) of the Banking Ordinance (Cap. 155)) who represents each of the parties concerned, the dealing is to be excluded from the definition.
3. Members may refer to the LegCo Brief (File Ref.: SUB38/38 (2005) Pt. 4) issued by the Financial Services and the Treasury Bureau on 9 November 2005 for background information.
4. According to the LegCo Brief, the Commission conducted a public consultation in February 2005, and the majority of the respondents were supportive of the proposed amendments. The LegCo Financial Affairs Panel has not been consulted about the Notice.
5. The Notice will come into operation on 6 January 2006.
6. No difficulties relating to the legal and drafting aspects of the Notice have been identified.

Prepared by

Lam Ping-man, Stephen
Assistant Legal Adviser
Legislative Council Secretariat
15 November 2005