

Securities and Futures Ordinance (“SFO”)

Derivation Table

This table includes some provisions in the third column that merely indicate where, in current legislation, the subject matter of the relevant section of the new SFO is dealt with. The section may in fact be quite different from current provisions. The number of the equivalent clause of the Blue Bill (including clauses added during the Committee Stage) is also given in the fourth column.

Legend:

CLA = Corporations Law of Australia (Corporations Act 2001)

CJA = Criminal Justice Act of U.K.

CTO = Commodities Trading Ordinance (Cap. 250)

CO = Companies Ordinance (Cap. 32)

ECH(M)O = Exchanges and Clearing Houses (Merger) Ordinance (Cap. 555)

FSA = Financial Services Act of U.K.

FSMA = Financial Services and Markets Act 2000 of U.K.

LFETO = Leveraged Foreign Exchange Trading Ordinance (Cap. 451)

PIO = Protection of Investors Ordinance (Cap. 335)

PWIO = Protection of Wages on Insolvency Ordinance (Cap. 380)

S(DI)O = Securities (Disclosure of Interests) Ordinance (Cap. 396)

SEUO = Stock Exchanges Unification Ordinance (Cap. 361)

SF(CH)O = Securities and Futures (Clearing Houses) Ordinance (Cap. 420)

SFCO = Securities and Futures Commission Ordinance (Cap. 24)

S(ID)O = Securities (Insider Dealing) Ordinance (Cap. 395)

SO = Securities Ordinance (Cap. 333)

Securities and Futures Ordinance

Derivation Table

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250	Interest in securities and beneficial ownership, etc. (market misconduct other than insider dealing)	SO ss.5 & 135(4)	242

Division 2 – Market Misconduct Tribunal

251	Market Misconduct Tribunal	New; S(ID)O s.15	243
252	Market misconduct proceedings	New; S(ID)O s. 16	244
253	Powers of Tribunal	S(ID)O ss.17 & 20	245
254	Further powers of Tribunal concerning evidence	S(ID)O ss.18 & 20	246
255	Use of evidence received for purposes of market misconduct proceedings	S(ID)O s.19	247
256	Privileged information	S(ID)O s.21(1)(a)	248
257	Orders, etc. of Tribunal	New; S(ID)O ss.23, 27 & 30	249
258	Further orders in respect of officers of corporation	S(ID)O s.24	250
259	Interest on moneys payable under order referred to in section 257(1)(d)	New	251
260	Costs	S(ID)O s. 26A	252
261	Contempt dealt with by Tribunal	New	253
262	Report of Tribunal	S(ID)O s.22	254
263	Form and proof of orders of Tribunal	S(ID)O s.28	255

Section of SFO	Section heading	Derivation	Clause of Blue Bill
264	Orders of Tribunal may be registered in Court of First Instance	S(ID)O s.29	256
265	Applications for stay of execution of orders of Tribunal under section 257, 258, 259 or 260	New	256A
Division 3 – Appeals, etc.			
266	Appeal to Court of Appeal	S(ID)O s.31	257
267	Powers of Court of Appeal on appeal	S(ID)O s.32	258
268	No stay of execution on appeal	S(ID)O s.33	259
269	Chief Justice may make rules	S(ID)O s.36	260
Division 4 – Insider Dealing			
270	Insider dealing	S(ID)O s.9	261
271	Insider dealing – certain persons not to be regarded as having engaged in market misconduct	S(ID)O s.10 & CJA, Schedule 1 paras.3 & 4	262
272	Insider dealing – certain trustees and personal representatives not to be regarded as having engaged in market misconduct	S(ID)O s.11	263
273	Insider dealing – certain persons exercising right to subscribe for or acquire securities or derivatives not to be regarded as having engaged in market misconduct	S(ID)O s.12	264
Division 5 – Other Market Misconduct			
274	False trading	SO s.135(1) & (2); CTO s.62; CLA ss.998, 1259 & 1260	265
275	Price rigging	SO s.135(3) & (4); CLA ss.998 & 1260	266
276	Disclosure of information about prohibited transactions	SO s.135(5); CLA ss.1001 & 1263	267
277	Disclosure of false or misleading information inducing transactions	SO s.138; CTO s.64; CLA ss.999 & 1261	268
278	Stock market manipulation	SO s.137& CLA s.997	269
Division 6 – Miscellaneous			
279	Duty of officers of corporations	S(ID)O s.13	270
280	Transactions relating to market misconduct not void or voidable	S(ID)O s.14	271

Section of SFO	Section heading	Derivation	Clause of Blue Bill
281	Civil liability for market misconduct	New; Influenced by SO s.141; CO s.40; FSMA s.150	272
282	Conduct not to constitute market misconduct	New	273
283	No further proceedings after Part XIV criminal proceedings	New	274
284	Market misconduct regarded as contravention of provisions of this Part	New	275

PART XIV – OFFENCES RELATING TO DEALINGS IN SECURITIES AND FUTURES CONTRACTS, ETC.

Division 1 – Interpretation

285	Interpretation of Part XIV	S(ID)O s.2	277
286	Interest in securities (insider dealing offence)	S(ID)O s.2(5)	278
287	Connected with a corporation (insider dealing offence)	S(ID)O s.4	279
288	Connected with a corporation – possession of relevant information obtained in privileged capacity (insider dealing offence)	S(ID)O s.5	280
289	Dealing in listed securities or their derivatives (insider dealing offence)	S(ID)O s.6	281
290	Interest in securities and beneficial ownership, etc. (market misconduct offences other than insider dealing offence)	SO ss.5 & 135(4)	282

Division 2 – Insider dealing offence

291	Offence of insider dealing	S(ID)O s.9	283
292	Insider dealing offence – general defences	S(ID)O s.10 & CJA, Schedule, paras. 3 & 4	284
293	Insider dealing offence – defences for certain trustees and personal representatives	S(ID)O s.11	285
294	Insider dealing offence – defences for certain persons exercising right to subscribe for or acquire securities or derivatives	S(ID)O s.12	286

Division 3 – Other market misconduct offences

295	Offence of false trading	SO s.135(1) & (2); CTO s.62; CLA ss.998, 1259 & 1260	287
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Section of SFO	Section heading	Derivation	Clause of Blue Bill
296	Offence of price rigging	SO s.135(3) & (4); CLA ss.998 & 1260	288
297	Offence of disclosure of information about prohibited transactions	SO s.135(5); CLA ss.1001 & 1263	289
298	Offence of disclosure of false or misleading information inducing transactions	SO s.138; CTO s.64; CLA ss.999 & 1261	290
299	Offence of stock market manipulation	SO s.137; CLA s.997	291
Division 4 – Other offences			
300	Offence involving fraudulent or deceptive devices, etc. in transactions in securities, futures contracts or leveraged foreign exchange trading	SO s.136; CTO s.63; LFETO s.40	292
301	Offence of disclosure of false or misleading information inducing others to enter into leveraged foreign exchange contracts	New. Influenced by SO s.138; CTO s.64; CLA ss.999 & 1261	293
302	Offence of falsely representing dealings in futures contracts on behalf of others, etc.	New; CLA s.1258	294
Division 5 – Miscellaneous			
303	Penalties	New	295
304	Transactions relating to contravention of Divisions 2 to 4 not void or voidable	New; S(ID)O s.14	295A
305	Civil liability for contravention of this Part	New. Influenced by SO s.141; CO s.40; FSMA s.150	296
306	Conduct not to constitute offences	New	297
307	No further proceedings after Part XIII market misconduct proceedings	New	298
PART XV – DISCLOSURE OF INTERESTS			
Division 1 – Preliminary			
308	Interpretation of Part XV	S(DI)O s.2	299
309	Exemptions	S(DI)O s.2A	300
Division 2 – Disclosure of interests and short positions			
310	Duty of disclosure: cases in which it may arise	S(DI)O s.3	301
311	Interests to be disclosed	S(DI)O s.4	302

Section of SFO	Section heading	Derivation	Clause of Blue Bill
312	Short positions to be disclosed	New	303
313	Circumstances in which duty of disclosure arises	S(DI)O s.4	304
314	Percentage level in relation to notifiable interests and short positions	S(DI)O s.5	305
315	Notifiable percentage level and specified percentage level	S(DI)O s.6	306
316	Notification of family and corporate interests and short positions	S(DI)O s.8	307
317	Agreement to acquire interests in a particular listed corporation	S(DI)O s.9	308
318	Interests of parties to agreement	S(DI)O s.10	309
319	Duty of parties to agreement acting together to keep each other informed	S(DI)O s.11	310
320	Circumstances in which persons have interests in shares or short positions by attribution	S(DI)O s.12	311
321	Notification by agents	S(DI)O s.15	312
Division 3 – Interests and short positions to be notified or disregarded			
322	Interests and short positions to be taken into account for the purposes of notification	S(DI)O s.13	313
323	Interests and short positions to be disregarded for the purpose of notification	S(DI)O s.14	314
Division 4 – Requirements for giving notification			
324	Notification to be given	S(DI)O s.7	315
325	Time of notification	S(DI)O s.7	316
326	Particulars to be contained in notification	S(DI)O s.7	317
327	Duty to publish and notify Monetary Authority of information given under Division 4	S(DI)O s.15	318
328	Offences for non-compliance with notification requirements	S(DI)O s.16	319
Division 5 – Listed corporation's powers to investigate ownership			
329	Power of listed corporation to investigate ownership of interests in its shares etc.	S(DI)O s.18	320
330	Duty to notify relevant exchange company, Commission and Monetary Authority of information given under section 329	S(DI)O s.20	321

Section of SFO	Section heading	Derivation	Clause of Blue Bill
331	Listed corporation to investigate ownership of interests in its shares etc. on requisition by members	S(DI)O s.21	322
332	Listed corporation to report to members	S(DI)O s.22	323
333	Duty to deliver report prepared under section 332 to relevant exchange company, Commission and Monetary Authority	S(DI)O s.23	324
334	Penalty for failure to provide information required by listed corporation	S(DI)O s.24	325
335	Inspection of reports	S(DI)O s.27	326
Division 6 – Keeping of register			
336	Register of interests in shares and short positions	S(DI)O s.16	327
337	Registration of interests and short positions disclosed under section 329	S(DI)O s.19	328
338	Removal of entries from register	S(DI)O s.25	329
339	Otherwise, entries not to be removed	S(DI)O s.26	330
340	Inspection of register	S(DI)O s.27	331
Division 7 – Disclosure of interests and short positions of directors and chief executives			
341	Duty of disclosure by director and chief executive	S(DI)O s.28	332
342	Interests to be disclosed by director and chief executive	S(DI)O s.28	333
343	Short positions to be disclosed by director and chief executive	New	334
344	Notification of family and corporate interests and short positions by director and chief executive	S(DI)O s.31	335
Division 8 – Interests and short positions to be notified by director and chief executive or disregarded			
345	Interests and short positions to be taken into account for the purpose of notification by director and chief executive	S(DI)O Schedule, Part I	336
346	Interests and short positions to be disregarded for the purpose of notification by director and chief executive	S(DI)O Schedule, Part II	337
Division 9 – Requirements for giving notification by director and chief executive			

Section of SFO	Section heading	Derivation	Clause of Blue Bill
347	Notification to be given by director and chief executive	S(DI)O Schedule, Part II	338
348	Time of notification by director and chief executive	S(DI)O Schedule, Part II	339
349	Particulars to be contained in notification by director and chief executive	S(DI)O Schedule, Part III	340
350	Duty to publish and notify Monetary Authority of information given under Division 9	S(DI)O s.32	341
351	Offences for non-compliance with notification requirements by director and chief executive	S(DI)O s.28 & Schedule, Part IV	342
Division 10 – Keeping of register of directors’ and chief executives’ interests and short positions			
352	Register of directors’ and chief executives’ interests and short positions	S(DI)O s.29	343
353	Removal of entries from register of directors’ and chief executives’ interests and short positions	New	344
354	Otherwise, entries not to be removed from register of directors’ and chief executives’ interests and short positions	New	345
355	Inspection of register on directors’ and chief executives’ interests and short positions	S(DI)O s.30	346
Division 11 – Power to investigate listed corporation’s ownership			
356	Power to investigate ownership of a listed corporation	S(DI)O s.33	347
357	Investigation of contraventions of sections 341 to 349	S(DI)O s.34	348
358	Inspector’s powers during investigation	S(DI)O s.35	349
359	Production of records and evidence to inspectors	S(DI)O s.36	350
360	Delegation of powers by inspectors	S(DI)O s.37	351
361	Obstruction of inspectors	S(DI)O s.38	352
362	Inspector’s reports	S(DI)O s.39	353
363	Expenses of investigation of the affairs of a corporation	S(DI)O s.40	354
364	Power to obtain information as to those interested in shares, etc.	S(DI)O s.42	356
365	Privileged information	S(DI)O s.43	357
Division 12 – Orders Imposing Restrictions on Shares etc.			

Section of SFO	Section heading	Derivation	Clause of Blue Bill
366	Power of Court of First Instance to impose restrictions on shares, etc. in case of failure to provide information required by listed corporation	S(DI)O s.24	357A
367	Power of Financial Secretary to impose restrictions on shares, etc. in case of conviction of offences for non-compliance with notification requirements	S(DI)O s.15	357B
368	Power of Financial Secretary to impose restrictions on shares, etc. in connection with investigation	S(DI)O s.41	357C
369	Consequence of order imposing restrictions	S(DI)O s.44	358
370	Punishment for attempted evasion of restrictions	S(DI)O s.45	359
371	Relaxation and removal of restrictions	S(DI)O s.46	360
372	Further provisions on sale by court order of restricted shares or equity derivatives	S(DI)O s.47	361
Division 13 – Miscellaneous			
373	Liability of members for offences by corporations	S(DI)O s.48	362
374	Method of giving notification and delivering report	S(DI)O s.51	363
375	Form of registers and indices	S(DI)O s.52	364
376	Regulations by Chief Executive in Council	S(DI)O s.53	365
377	Rules by Commission	New	365A
PART XVI – MISCELLANEOUS			
Division 1 – Secrecy, conflict of interests and immunity			
378	Preservation of secrecy, etc.	SFCO s.59(1), (2), (2A), (3) & (7)(a) & 59A(1) & (2) & 61(1); SO ss.94 & 121BA; CTO s.57; LFETO s.63(1), (2), (3), (4) & (7)(a)	366
379	Avoidance of conflict of interests	SFCO s. 59(4), (5), (6) & (7)(b) & 61(1); LFETO s. 63(5), (6) & (7)(b)	367
380	Immunity	SFCO s.56; SF(CH)O s.17; LFETO s. 62	368
381	Immunity in respect of communication with Commission by auditors of listed corporations, etc.	New	369

Section of SFO	Section heading	Derivation	Clause of Blue Bill
Division 2 – General provisions regarding proceedings and offences			
382	Obstruction	SO s.145(a); CTO s.108(a); LFETO s. 64(a)	370
383	False or misleading representations in applications to the Commission	CTO s. 40; SO ss. 62 & 121F(4) & (5); LFETO s. 10	371
384	Provision of false or misleading information	CTO s.109A; SFCO s.56A; SEUO s.38A; SF(CH)O s.15A	372
385	Power of Commission to intervene in proceedings	New; CLA s.1330	373
386	Proceedings not to be stayed	New; CLA s. 1331	374
387	Standard of proof	New; CLA s.1332	375
388	Prosecution of certain offences by Commission	SO s.148; CTO s.114; SFCO s.62; LFETO s. 65; S(DI)O s.49	376
389	Limitation on commencement of proceedings	SO s.148A; CTO s.114A; PIO s.7B(1); LFETO s. 67; S(ID)O s.35	377
390	Liability of officers of corporations for offences by corporations, and of partners for offences by other partners	SO s.147(1) & (4); CTO s.110(1); PIO ss.7(1); S(ID)O s.34; S(DI)O s.48	378
391	Civil liability for false or misleading public communications concerning securities and futures contracts	New; Influenced by CO s.40	208 and 378A
Division 3 – Power to make rules, and codes or guidelines, etc.			
392	Financial Secretary to prescribe interests, etc. as securities and futures contracts	New: FSMA s.22 & Part II of Schedule 2	379
393	Financial Secretary to prescribe arrangements as collective investment schemes	PIO ss. 2(1) ‘investment arrangements’ & 2A	380
394	Orders by Chief Executive in Council for levies	CTO s.79A; SFCO s. 52	381
395	Rules by Chief Executive in Council for payment of fees	SFCO s.54; LFETO s.72	382
396	Reduction of levy	SFCO s.52	383
397	Rules by Commission	SO ss.65A(2), 146 & 146A; CTO s.109; LFETO ss. 45 & 73	384
398	General provisions for rules by Commission	New	384A
399	Codes or guidelines by Commission	New; SFCO s.4(2);	385

Section of SFO	Section heading	Derivation	Clause of Blue Bill
	Division 4 – Miscellaneous		
400	Service of notices, etc.	SFCO s.60; LFETO s. 61	386
401	Evidence regarding Commission’s records or documents	SFCO s.58; LFETO s. 68	387
402	General requirements for documents lodged with Commission	New	388
403	General provisions for approvals by Commission	ECH(M)O s.2(4)	389
404	Exclusions of provisions of Gambling Ordinance	CTO s.116; LFETO s. 70	390
405	Inland Revenue Ordinance not affected	New	391

PART XVII – REPEALS AND RELATED PROVISIONS

406	Repeals	New	392
407	Savings, transitional, consequential and related provisions, etc.	New	393
408	Provisions of Part XVII, etc. not to derogate from section 23 of Interpretation and General Clauses Ordinance	New	394
409	Amendment of Schedule 10	New	395

SCHEDULE OF THE SFO

Derivation

Schedule of Blue Bill

Schedule 1 – Interpretation and General Provisions

Sch 1

Part 1	Interpretation		Part 1
Part 2	Specified Futures Exchanges	LFETO Schedule	Part 2
Part 3	Specified Stock Exchanges	LFETO Schedule	Part 3
Part 4	Multilateral Agencies	PIO Schedule	Part 3A
Part 5	Qualifying Credit Rating	LFETO Schedule	Part 4

Schedule 2 – Securities and Futures Commission

Sch 2

Part 1	Constitution and Proceedings of Commission, etc.	SFCO ss.3, 5 & 10	Part 1
Part 2	Non-delegable Functions of the Commission	SFCO Schedule	Part 2

SCHEDULE OF THE SFO		Derivation	Schedule of Blue Bill
Schedule 3 – Exchange companies, Clearing Houses and exchange controllers			Sch 3
Part 1	Definitions	New	Part 1
Part 2	Specification of persons who are associated persons	ECH(M)O Part 1 Schedule 1	Part 2
Part 3	Specification of persons who are not associated persons	ECH(M)O Part 2 Schedule 1	Part 3
Part 4	Specification of persons who are not indirect controllers	ECH(M)O Part 2 Schedule 1	Part 4
Part 5	Requirements for default rules of recognized clearing houses	ECH(M)O Part 3 Schedule 1	Part 5
Part 6	Provisions applicable where there is a failure to comply with notice under section 59(9)(c), 61(9)(b) or 72(1) of this ordinance	SF(CH)O Schedule 2 ECH(M)O Schedule 2	Part 6
Part 7	Specification of persons who are not minority controllers	ECH(M)O Part 1 Schedule 3	Part 7
Part 8	Exemption from section 59(1) of this ordinance	ECH(M)O Part 2 Schedule 3	Part 8
Schedule 4 – Offers of Investments			Sch 4
Part 1	Sum specified for purposes of Section 103(3)(f)(i) and (g) of this Ordinance	PIO Schedule	Part 1
Part 2	Instruments specified for purposes of Section 103(3)(g) of this Ordinance	PIO Schedule	Part 2
Part 3	Exempted Bodies	PIO Schedule	Part 4
Part 4	Sum specified for the purposes of definition of “relevant condition” in Section 103(13) of this Ordinance	PIO Schedule	Part 5
Schedule 5 – Regulated Activities			Sch 6
Part 1		New	Part 1
Part 2		New; SO s. 2(1); CTO s. 2(1); SMFAO s. 2; LFETO s. 2	Part 2
Part 3		SO Schedule 4	Part 3
Schedule 6 – Specified Titles			Sch 6A
		New	

Schedule 7 – Offers by intermediaries or representatives for Type 1, or Type 4 or Type 6 regulated activity under Section 175 of this Ordinance			Sch 5
Part 1	Requirements to be satisfied in relation to offers to acquire securities	SO Schedule 1	Part 1
Part 2	Requirements to be satisfied in relation to offers to dispose of securities	SO Schedule 2	Part 2
Schedule 8 – Securities and Futures Appeals Tribunal			Sch 7
Part 1	Appointment of Members and Proceedings of Tribunal, etc	New. Influenced by SFCO ss. 18, 20 & 21; S(ID)O s. 15 and Schedule	Part 1
SCHEDULE OF THE SFO		Derivation	Schedule of Blue Bill
Part 2	Specified Decisions	New. Influenced by SFCO s.19; LFETO ss.56 & 57	Part 1
Part 3		New	Part 3
Schedule 9 – Market Misconduct Tribunal		New. Influenced by SFCO ss 18, 20 & 21; S(ID)O s. 15 & Schedule	Sch 8
Schedule 10 - Savings, Transitional, Consequential and related provisions, etc.		New; New; cf SEUO Schedule 2, para. 4	Sch 9
Part 1	Savings, Transitional and Supplemental Arrangements		Part 1
Part 2	Consequential and Supplemental Amendments		Part 2