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From: jwong@hsbc.com.hk
Date: 01/12/2001 10:12 AM

Our Ref:

Subject: Draft Consultation Paper on the Securities and Futures (Disclosure of Interests - Securities Borrowing and Lending) Rules

Dear Anthony,

I have received a copy of the draft consultation paper via PASLA.

After a cursory reading of the draft consultation paper, the paper in general set out the broad principles of certain exemption from disclosure requirements. I also noted that some of the issues raised at the Working Group meeting has yet to be incorporated. On the other hand, I would also like to seek clarification on interpretation of certain points.

The Simplified Disclosure Regime focused on (i) institutional investors (long term asset holders), (ii) approved lending agents (mainly custodians) and (iii) regulated persons (ie brokers). I would like to clarify if, in the case of authorized financial institutions offering equity finance business, therefore assuming a principal (rather than agency) role in conduit activities, the current wording seemed to have excluded this particular scenario. I would suggest that we expand the definition of "regulated persons" to include "exempt persons" or something that would allow banks (acting as principal) to be included. This point was discussed in the Working Group and at the time it was agreed that the wording will be revised to include banks.

I would also like to seek clarification on interpretation of the draft rules using the following hypothetical example:

A conduit lender (can be a bank or broker) signs up with an institutional investor and agree an exclusive arrangement to borrow from the latter for onward lending purposes from time to time. Under the draft rule, the institutional lender can make a one-off disclosure (if any of the lines represented holding of 5% or more). Would the conduit lender need to make a similar disclosure, or can he rely on the conduit lender provision that such such interests would be disregarded and no disclosure would be required?

Your advice would be most appreciated.

Thanks and best regards

James Wong
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