



SECURITIES AND
FUTURES COMMISSION
證券及期貨事務監察委員會

A Consultation Paper on

- i) Securities and Futures (Investor Compensation) Rules,
- ii) Securities and Futures (Investor Compensation – Compensation Limits) Rules,
- iii) Securities and Futures (Transfer of Functions – Investor Compensation Company) Order, and
- iv) Securities and Futures (Investor Compensation - Miscellaneous) Rules

- i) 《證券及期貨(投資者賠償)規則》；
- ii) 《證券及期貨(投資者賠償 – 賠償限額)規則》；
- iii) 《證券及期貨(轉移職能 – 投資者賠償公司)令》；及
- iv) 《證券及期貨(投資者賠償 – 雜項條文)規則》的

諮詢文件

Hong Kong
March 2002

香港
2002年3月

1. The Securities and Futures Commission (“SFC”) is publishing this Paper to consult the public on draft subsidiary legislation relating to new investor compensation arrangements to be put in place under Parts III and XII of the Securities and Futures Ordinance (No. 5 of 2002) (the “Ordinance”). The draft subsidiary legislation comprises rules to be made by the Chief Executive in Council and rules to be made by the SFC under Ordinance.
2. The Chief Executive in Council will be asked to make the following rules under section 244(1) of the Ordinance :
 - i) **Securities and Futures (Investor Compensation) Rules** (see Appendix 1);
 - ii) **Securities and Futures (Investor Compensation – Compensation Limits) Rules** (see Appendix 2).
3. The Chief Executive in Council will also be asked to make the **Securities and Futures (Transfer of Functions – Investor Compensation Company) Order** under section 80(1) of the Ordinance (see Appendix 3).
4. The SFC will make the **Securities and Futures (Investor Compensation - Miscellaneous) Rules** under section 244(2) of the Ordinance (see Appendix 4).
5. Part III and XII of the Ordinance provide for the framework for the establishment of the new compensation fund and the investor compensation company as described in the Paper on the Proposed New Investor Compensation Arrangements published by the SFC in March 2001 (“the March 2001 Paper”). The above proposed subsidiary legislation sets out the details of the compensation arrangements as proposed in that March 2001 Paper.
6. The proposed Securities and Futures (Investor Compensation) Rules will provide for details about the funding arrangements of the new compensation fund. They provide for a 0.002% compensation fund levy on securities transactions (subject to several exceptions) and a \$0.50 levy on each futures contract (\$0.2 for each Mini-Hang Seng Index futures contract and stock futures contract) payable by both the buyer and the seller.
7. The March 2001 Paper proposed that the new compensation fund should provide for a per claimant compensation payment limit. The proposed Securities and Futures (Investor Compensation – Compensation Limits) Rules provide that \$150,000 is the maximum amount of compensation that may be paid to a person making a claim from the investor compensation fund.
8. The March 2001 Paper proposed the establishment of an investor compensation company to manage the new compensation fund and process claims. Part III of the Ordinance provides for the establishment of an investor compensation company. The Securities and Futures (Transfer of Functions – Investor Compensation Company) Order prescribes the functions to be transferred to the Investor Compensation Company.

9. The Securities and Futures (Investor Compensation – Miscellaneous) Rules will prescribe the persons who may make a claim for compensation from the investor compensation fund established under section 236 of the Ordinance. The “qualifying client” defined in the rules is similar to that set out in the March 2001 Paper. They also prescribe the manner in which a claim is to be made and how such a claim will be assessed and paid and other miscellaneous matters.
10. It is the intention of the SFC that the draft Securities and Futures (Investor Compensation – Miscellaneous) Rules should be user-friendly and, for example, they have been drafted in plain English where possible with this objective in mind. The SFC would welcome suggestions from industry participants on any specific improvements that could be made to streamline procedures or make it easier for participants to comply with the requirements of the draft rules.
11. The SFC invites comments on this Consultation Paper. Written comments should reach the SFC before the close of business by 25th April 2002. Written comments may be sent

By mail to: SFC (Compensation Fund)
12/F, Edinburgh Tower
The Landmark
15 Queen’s Road Central
Hong Kong
Attn : Supervision of Markets Division

By fax to: (852) 2521 7917

By on-line submission at : <http://www.hksfc.org.hk>

By e-mail to: compensation_fund@hksfc.org.hk

12. Please note that the names of the commentators and the contents of their submissions may be published on the SFC web site and in other documents to be published by the SFC. In this connection, please read the Personal Information Collection Statement attached to this consultation paper at Appendix 5.
13. If you do not wish your name and/or submission to be published by the SFC, please state that you wish your name and/or submission to be withheld from publication when you make your submission.
14. The draft Rules and Order should be read in conjunction with the Securities and Futures Ordinance itself.

Personal Information Collection Statement

1. This Personal Information Collection Statement (“PICS”) is made in accordance with the guidelines issued by the Privacy Commissioner for Personal Data. The PICS sets out the purposes for which your Personal Data¹ will be used following collection, what you are agreeing to with respect to the SFC’s use of your Personal Data and your rights under the PDPO.

Purpose of Collection

2. The Personal Data provided in your submission to the SFC in response to this Consultation Paper may be used by the SFC for one or more of the following purposes:
 - to administer the relevant Ordinances, rules, regulations, codes and guidelines
 - made or promulgated pursuant to the powers vested in the SFC
 - for the purposes of performing the SFC’s statutory functions under the relevant Ordinances
 - for research and statistical purposes
 - other purposes permitted by law

Transfer of Personal Data

3. Personal Data may be disclosed by the SFC to the members of the public in Hong Kong and elsewhere, as part of the public consultation on the Consultation Paper. The names of persons who submit comments on the Consultation Paper together with the whole or part of their submission may be disclosed to members of the public. This will be done by publishing this information on the SFC web site and in documents to be published by the SFC throughout and at the conclusion of the consultation period.

Access to Data

4. You have the right to request access to and correction of your Personal Data in accordance with the provisions of the PDPO. Your right of access includes the right to obtain a copy of your Personal Data provided in your submission on the Consultation Paper. The SFC has the right to charge a reasonable fee for processing any data access request.

Enquiries

¹ Personal Data means personal data as defined in the Personal Data (Privacy) Ordinance, Cap 486 (“PDPO”)

5. Any enquiries regarding the Personal Data provided in your submission on the Consultation Paper, or requests for access to Personal Data or correction of Personal Data, should be addressed in writing to:

The Data Privacy Officer
The Securities and Futures Commission
12/F, Edinburgh Tower, The Landmark
15 Queen' s Road Central, Hong Kong

A copy of the Privacy Policy Statement adopted by the SFC is available upon request.