



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

**Consultation Conclusions on the draft
Securities and Futures Ordinance (Amendment
of Schedule 8) Order**

《證券及期貨條例(修訂附表 8)令》草擬本
諮詢總結

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INTRODUCTION

1. On 5th August 2002 the Securities and Futures Commission (“SFC”) issued a consultation paper to solicit public comments on the draft **Securities and Futures Ordinance (Amendment of Schedule 8) Order** (“the draft Order”). The SFC intends to recommend to the Chief Executive in Council to make the draft Order under section 234 of the Securities and Futures Ordinance (Cap. 571) (“the Ordinance”) when it commences.
2. Under Part XI of the Ordinance the existing part-time Securities and Futures Appeals Panel will be replaced by an independent full-time appeals body, chaired by a judge called the Securities and Futures Appeals Tribunal (“SFAT”). The matters over which the SFAT will have jurisdiction (being decisions of the SFC, the HKMA and an investor compensation company) are specified in Part 2 of Schedule 8 and are defined as “specified decisions”.
3. Under section 234 of the Ordinance the Chief Executive in Council has power to amend Part 2 of Schedule 8 to add or delete specified decisions. Persons affected by any specified decisions can apply to the SFAT for a review of the decision. The SFC intends to recommend to the Chief Executive in Council to add decisions under certain sections of the subsidiary legislation to be made under the Ordinance to the list of “specified decisions”. Further details of these decisions are set out in paragraphs 9 and 10 of the consultation paper.
4. Section 232(2) of the Ordinance prescribes the time when specified decisions, other than those set out in Division 5 of Part 3 of Schedule 8, are to take effect. Under section 234, the Chief Executive in Council has power to amend Part 3 of Schedule 8. The SFC intends to recommend to the Chief Executive in Council to add to Division 5 of Part 3 of Schedule 8 two decisions of the Commission under the proposed Securities and Futures (Stock Market Listing) Rules which will take effect earlier than the period specified in section 232(2)(a), (b) or (c). Further details are set out in paragraph 11 of the consultation paper.
5. The consultation exercise was extended by one week and ended on 26 August 2002.

CONSULTATION EXERCISE

6. A press release regarding the consultation exercise was issued on 5th August 2002. The consultation paper and the draft Order were posted on the website of the SFC and distributed to all registrants through FinNet.
7. No submissions were received.

CONSULTATION CONCLUSIONS

8. After the completion of the consultation exercise, it is considered that no amendment to the substance of the draft Order will be necessary. However, certain drafting changes have been made so that the provisions of the draft Order better reflect the underlying provisions. An additional item has also been added to the draft Order as a specified decision. A refusal by the SFC to give a notice in writing under section 4(4)

of the Securities and Futures (Contract Limits and Reportable positions) Rules (i.e. the refusal by the SFC to state that it is satisfied that it is appropriate for a person to hold a position in excess of the limits imposed by those Rules) can now also be reviewed by the SFAT.