



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

Consultation Conclusions on the Securities and Futures (Fees) Rules

《證券及期貨(費用)規則》諮詢總結

Hong Kong
Sept 2002

香港
2002年9月

INTRODUCTION

1. On 30 July 2002, the Securities and Futures Commission (“SFC”) published a Consultation Paper on the Securities and Futures (Fees) Rules (“Consultation Paper”).
2. The draft Rules require and provide for payment of fees to the SFC and to prescribe fees–
 - (a) for an application to the SFC under or pursuant to any of the relevant provisions;
 - (b) for anything done by the SFC or one of its committees in the performance of a function relating to takeovers and mergers or to share repurchases;
 - (c) for anything done by the SFC or one of its committees or the Monetary Authority in the performance of a function under any of the relevant provisions (other than the function referred to in (b) above); and
 - (d) for any other matter with regard to which provision is made by or under any of the relevant provisions.

The draft Rules also provide for payment to the SFC of fees and prescribe fees which the Securities and Futures Ordinance (“Ordinance”) provides are, or may be prescribed, specified or provided for by rules made under this section.

3. The consultation period ended on 24 August 2002.
4. It is advisable to read this document with the Consultation Paper itself as well as the Consultation Conclusion on Proposed Licensing Fees under the Securities and Futures (Fees) Rules.

CONSULTATION EXERCISE

5. A press release regarding the consultation exercise was issued on 30 July 2002. The Consultation Paper and the draft Rules were posted on the website of the SFC and distributed to all registrants through FinNet.
6. In addition, letters were sent to the Hong Kong Investment Funds Association, the Hong Kong Association of Banks, Life Insurance Council of the Hong Kong Federation of Insurers and the relevant scheme sponsors highlighting the issues concerning the proposed single fees structure for all collective investment schemes as set out in the Consultation Paper and the draft Rules.

CONSULTATION CONCLUSIONS

7. Two submissions were received regarding the proposed fees in respect of investment products, one each from CMG Asia Limited and Life Insurance Council of the Hong Kong Federation of Insurers. A summary of the comments from these two parties as well as the SFC’s responses are set out in the Attachment.

8. After the completion of the consultation exercise, it is considered that no amendment to the substance of the draft Rules is necessary. We have, however, refined the draft Rules to improve drafting where necessary.

Fees in respect of corporate finance matters

9. As stated in the Consultation Paper, there were no new policy initiatives or changes to fees in respect of corporate finance matters in the draft Rules. However, some amendments to the draft Rules will be made to better reflect the policy and existing practice.

Fees in respect of investment products

10. The SFC is empowered to authorize any collective investment scheme and the issue of any advertisement, invitation or document relating to different investment products under sections 104 and 105 of the Securities and Futures Ordinance (the “Ordinance”) respectively. The corresponding fees payable to the SFC are set out in Schedule 1 to the draft Rules.
11. The proposed fee levels are basically the same as those set out in the existing Securities and Futures Commission (Fees) Rules (the “existing Rules”) which have remained unchanged for the past 8 years or so. However, it is proposed under the draft Rules that a single fees structure be adopted for all collective investment schemes. This approach is consistent with the adoption of the single “collective investment scheme” notion under Part IV of the Ordinance.
12. As highlighted in the Consultation Paper and the responses to the comments received, it is the SFC’s intention to minimize the potential impact of the proposed single fees structure on different scheme sponsors. To that end, it is provided in the relevant provisions of the draft Rules that a fund which is already within or maintained by another authorized collective investment scheme would not be subject to additional charges. In addition, the SFC is also empowered under section 11 of the draft Rules to waive, in whole or in part, the payment of any fee prescribed for any person in special circumstances, if it is of the opinion that otherwise the fee would be unduly burdensome or inappropriate due to the particular nature of a product.

Summary of comments received on the Draft Securities and Futures (Fees) Rules

| | Section Reference | Details of the Rules | Respondent' s Comments | SFC' s Responses |
|---|----------------------------------|---|--|---|
| 1 | Items 2 to 4, Part 1, Schedule 1 | Fees payable to the SFC for authorization of a collective investment scheme under section 104(1) of the Ordinance | CMG Asia Limited queried whether it would be more appropriate if the existing fees structure for their pooled retirement funds could be maintained given their own marketing strategies for these funds. | <p>The intention of the proposed single fees structure for all collective investment schemes is to streamline and rationalize the existing structures for different types of schemes which are in fact functionally similar in nature. As pooled retirement funds are collective investment schemes, the SFC considers it inappropriate to create a carve-out for these funds from the proposed structure.</p> <p>Nevertheless, the SFC is empowered under section 11 of the draft Rules to waive, in whole or in part, the payment of any fee prescribed for any person in</p> |

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| | | | | special circumstances, if it is of the opinion that otherwise the fee would be unduly burdensome or inappropriate due to the particular nature of the product. |
| 2 | Items 2 to 4, Part 1, Schedule 1 | Fees payable to the SFC for authorization of a collective investment scheme under section 104(1) of the Ordinance | Life Insurance Council of the Hong Kong Federation of Insurers queried whether certain types of funds offered through investment-linked assurance schemes would be charged “twice” under the proposed single fees structure for all collective investment schemes. | <p>As provided in items 4 to 6 of Schedule 1 to the draft Rules, a fund which is already within or maintained by another authorized collective investment scheme would not be subject to additional charges. Given that, the SFC believes that such a fund would not be charged “twice”.</p> <p>Nevertheless, the SFC is empowered under section 11 of the draft Rules to waive, in whole or in part, the payment of any fee prescribed for any person in special circumstances, if it is of the opinion that otherwise the fee would be unduly burdensome or inappropriate due to the particular nature of a product.</p> |

List of Respondents

| Date received | Respondent |
|----------------------|--|
| 23 August 2002 | CMG Asia Limited |
| 23 August 2002 | Life Insurance Council of the Hong Kong Federation of Insurers |