



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

## **Consultation Conclusions on the Proposed Licensing Fees under the Securities and Futures (Fees) Rules**

### **《證券及期貨(費用)規則》下的建議牌照費用 諮詢總結**

Hong Kong  
July 2002

香港  
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## 引言

1. 2002年3月8日，證券及期貨事務監察委員會（“證監會”）發表諮詢文件，邀請公眾就《證券及期貨(費用)規則》（“《費用規則》”）下的建議牌照費用發表意見。
2. 有關的諮詢期已於2002年4月8日結束。
3. 本文件旨在撮述證監會在諮詢期間收到的主要意見及查詢，以及證監會所作出的回應。
4. 本文件應與該諮詢文件一併閱讀。

## 公眾諮詢

5. 證監會除了發出公告邀請公眾發表意見外，亦向所有使用金融服務網絡的通訊網絡的持牌中介人傳送該諮詢文件。該諮詢文件亦載於證監會網站。
6. 2002年4月2日，證監會舉行簡介會，向約200名業內人士簡介建議的牌照費用。
7. 證監會共接獲3份意見書。其中一份屬集體提交的意見書，由5家國際經紀行<sup>1</sup>透過其律師提交，其餘兩份意見書分別由香港證券經紀業協會有限公司及香港銀行公會提交。該等意見書已於證監會網站內發表。
8. 除書面意見外，證監會亦在2002年4月2日舉行的簡介會中收到若干口頭意見。

## 意見及查詢摘要以及證監會的回應

9. 回應者普遍歡迎證監會降低牌照費用的建議。他們在意見書中主要要求證監會澄清在新發牌制度實施後，有關是否需要在特殊情況下就特定的受規管活動申領牌照的事宜。若干回應者亦建議在《費用規則》內加入更多的費用寬免。

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<sup>1</sup> 德意志證券亞洲有限公司、高盛(亞洲)有限責任公司、Merrill Lynch (Asia Pacific) Limited、摩根士丹利添惠亞洲有限公司及所羅門美邦香港有限公司。

10. 證監會收到的意見及查詢的摘要以及本會的回應，均載於附件之內。

### **諮詢總結**

11. 在考慮過所收到的意見後，除了就某人的牌照狀況或其他有關事宜要求證監會發出確認函所須繳付的兩項費用外，證監會決定採納該諮詢文件建議的費用。經過再三考慮後，證監會認為毋須如當初所建議的一樣，就該兩項(即《建議牌照費用附表》的第(37)及(38)項)訂明任何費用。
12. 《費用規則》內會加入若干額外的費用寬免，以使在過渡期內，目前的持牌人或獲豁免人士除了他們在現行的制度下所須繳付的款額外，毋須繳付額外的牌照費用。有關的額外費用寬免詳述如下。

### **過渡到新制度的申請費用將獲得寬免**

13. 緊接在《證券及期貨條例》實施後的兩年過渡期內，在目前的制度下已就若干受規管活動獲註冊或獲豁免註冊的現有持牌人及獲豁免人士，將會被當作已就該等受規管活動獲得發牌。為了可以在過渡期後繼續進行該等受規管活動，有關人士需要在過渡期結束之前，根據新制度向證監會申請牌照或註冊(視屬何情況而定)。就此而言，證監會建議該等純粹為過渡到新制度而提交的申請毋須繳交費用。
14. 上述安排旨在確保目前的持牌人及獲豁免人士在過渡至新制度時毋須繳付額外費用。然而，這些人士仍須按照《證券及期貨條例》第138(1)條，繳付《費用規則》內訂明需要持續繳付的年費。
15. 一如該諮詢文件所建議，為了鼓勵目前的持牌人及獲豁免人士及早提出過渡到新制度的申請，申請人若在過渡期首年內提出有關的申請，可獲得5%的年費折扣(按目前的收費計算)。這項折扣適用於由提交有關申請的日期起計至過渡期結束為止的該段期間內的任何應付年費。
16. 舉例來說，假設過渡期由2003年1月1日起開始，如註冊周年日期為每年7月1日的某現有證券交易商在2003年4月1日提交過渡到新制度的申請，便可以就由2003年4月1日至2004年12月31日期間的應付年

費獲得5%折扣。因此，在計算該名交易商下一年度的應付年費時，證監會會從該名交易商由2003年4月1日至2003年6月30日期間按比例須繳付的年費扣減相等於5%的款額。在2003年7月1日至2004年12月31日的這段期間，連同該諮詢文件建議的3%年費扣減，該名交易商可享有比目對的費用水平低8%的年費減免。該名交易商由於及早提交過渡到新制度的申請而有權享有的所有有關費用折扣，會在其日後須繳付的年費的相應減幅中反映出來。

### **獲豁免人士在過渡期內須繳付的費用將會維持在目前水平**

17. 為過渡到新制度，屬於認可財務機構的獲豁免人士可以申請成為新制度下的註冊機構。一如該諮詢文件所建議，向註冊機構徵收的年費，將會較目前適用於獲豁免人士的費用為高。
18. 至於屬於非認可財務機構的獲豁免人士，他們需要申請成為新制度下的持牌法團。在作出這樣的申請時，他們可能會因為新制度對其員工施加的發牌規定而在整體上需要支付較高費用(目前制度對該等人士的員工沒有施加任何發牌規定)。
19. 鑑於上述原因，證監會建議在過渡期內，獲豁免人士須繳付的年費應相等於他們在目前制度下須繳付的費用。第15段所述的提早申請即可享有的年費折扣亦將適用。
20. 此外，假如並非認可財務機構的獲豁免人士申請成為持牌法團，其就隸屬於該法團的員工所提出的申請及須繳付的年費將會在過渡期內獲得寬免。證監會作出這項建議，是因為在目前制度下，有關人士毋須繳付任何費用。

### **若干持牌銀行可獲寬免繳交申請費及年費**

21. 根據目前法例，進行涉及證券的投資顧問活動的持牌銀行，可獲寬免遵守註冊規定。然而，在新發牌制度下，持牌銀行如有意在過渡期後進行該等受規管活動，便要申請成為註冊機構。
22. 為了配合“毋須繳付額外費用”的原則，證監會建議如持牌銀行就其一直進行但根據目前制度毋須遵守任何註冊規定的有關受規管活動<sup>2</sup>

<sup>2</sup> 《證券及期貨條例》附表5界定的第4、第6及/或第9類受規管活動。

申請成為註冊機構，將可在過渡期內獲寬免繳付《費用規則》內訂明的有關申請費用。

23. 此外，在過渡期間，假如持牌銀行是被或曾被當作已按照該條例附表10第32條，根據該條例第119(1)條獲註冊，則該註冊機構須繳付的年費將可獲得寬免。
24. 該項費用寬免所產生的效果是，有關持牌銀行在過渡期內將毋須就其進行的有關受規管活動繳付任何費用。在有關申請獲得批准後，該持牌銀行將須就由緊接過渡期結束後至其下個註冊周年日期止的期間，繳付年費。

#### **就修改牌照/註冊證明書而須繳付的費用**

25. 證監會確認，就修改牌照/註冊證明書而須繳付的費用(即《建議牌照費用附表》第(17)及(28)項)，只會在有關修改並非是由於任何在《費用規則》內指明須另外繳費的其他申請(例如申請修改受規管活動、轉移隸屬關係或核准負責人員)所引起時才適用。
26. 第25段的詮釋將會在過渡期內及之後持續有效。

#### **結語**

27. 證監會對於曾經就該諮詢文件提出寶貴建議及意見的所有業界人士及對此感興趣的人士，謹此致謝。
28. 建議的牌照費用將會成為《證券及期貨(費用)規則》草擬本的一部分，而證監會將於短期內發表該草擬規則，以諮詢公眾意見。

**證券及期貨事務監察委員會**

2002年7月

## Summary of comments/enquiries received on the Proposed Licensing Fees under the Securities and Futures (Fees) Rules

	Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)	Details of the Fee	Respondent's Comments/Enquiries	SFC's Response
<i>Regulated activities conducted "wholly incidental" to dealing in securities / futures contracts</i>				
(1)	-	-	<p>Hong Kong Stockbrokers Association Limited ("HKSA") seeks confirmation as to whether an existing broker dealer will be able to carry out the following regulated activities without incurring additional licensing costs as compared to the current regime:</p> <p>(i) Type 1: dealing in securities;</p> <p>(ii) Type 4: advising on securities;</p> <p>(iii) Type 7: providing automated trading services ("ATS");</p>	<p>A stockbroker needs to be licensed for Type 1 regulated activity in order to deal in securities. This resembles the registration as a Securities Dealer under the current regime.</p> <p>As defined in Schedule 5 to the Securities and Futures Ordinance ("SFO"), "advising on securities" does not include such advice as provided by a person who is licensed for Type 1 and gives such advice wholly incidental to the carrying on of Type 1 regulated activity. Under such circumstances, a licence for Type 4 would generally not be necessary for a stockbroker.</p> <p>For a stockbroker who conducts securities dealing through the Internet, it needs a licence for both Type 1 and Type 7 regulated activities. In this regard, the SFC considers that such Type 7 regulated activity is an integral part the stockbroker's securities dealing business and that levying separate licensing fees on Type 7 regulated activity would not be necessary.</p>

	Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)	Details of the Fee	Respondent's Comments/Enquiries	SFC's Response
			<p>(iv) Type 8: securities margin financing; and</p> <p>(v) Type 9: asset management.</p> <p>HKSA also seeks the SFC's confirmation as to whether existing registered individuals will be able to provide the activities mentioned above without incurring extra costs under the new regime.</p>	<p>The definition of "securities margin financing" in Schedule 5 to the SFO does not include the provision of financial accommodation by a person who is licensed for Type 1 regulated activity. Type 8 is thus not required for persons already licensed for Type 1.</p> <p>According to the definition of "asset management", brokers are not required to be licensed for Type 9 regulated activity so long as such services provided are wholly incidental to their carrying on Type 1 or Type 2 regulated activity.</p> <p>The SFC confirms that an existing stockbroker who:</p> <ul style="list-style-type: none"> <li>• carries out dealing in securities through the Internet;</li> <li>• advises on securities and provides asset management services wholly incidental to its dealing business; and</li> <li>• carries out securities margin financing</li> </ul> <p>will require a licence for Type 1 and Type 7 regulated activities under the new regime. However, the fees in relation to Type 7 will be waived. As such, only the fees for Type 1 will become payable and the stockbroker will not incur extra costs when compared with the existing regime.</p> <p>The above analysis also applies to individuals licensed as the broker's representatives.</p>

	Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)	Details of the Fee	Respondent's Comments/Enquiries	SFC's Response
(2)	-	-	<p>Linklaters asks for clarification as to which types of regulated activities are required under the following scenarios:</p> <p>(i) Portfolio managers who are also involved in promoting funds to clients. Need Type 1 and Type 9?</p> <p>(ii) Sales staff who provide advice to clients, and/or are granted discretionary authority by some of his clients. Need Type 1, Type 2 and Type 9?</p> <p>(iii) Corporate finance professionals who also advise on capital raising by way of private placement. Need Type 1, Type 4 and Type 6?</p> <p>(iv) Research analysts who solicit interest in a particular stock without going so far as to take the order. Need Type 1 and Type 4?</p>	<p>Portfolio managers in this scenario will be required to be licensed for Type 1 and Type 9 regulated activities. Type 1 is necessary because they induce other persons to deal in securities by promoting funds. It is no different from the current regime as to whether a person is required to be registered as a dealer.</p> <p>In this scenario, where the provision of asset management services are carried out incidental to dealing in securities and/or futures contracts, the sales staff are only required to be licensed for Type 1 and/or Type 2 regulated activity.</p> <p>In this scenario, advising on capital raising involves giving advice concerning compliance with or in respect of rules governing the listing of securities and/or the relevant code published by the SFC. Therefore, a licence for Type 6 regulated activity is required.</p> <p>Type 1 regulated activity is also necessary if the individuals concerned induce others to acquire the shares of public companies by way of private placement or otherwise. However, they may not be required to be licensed for Type 4 regulated activity if such advisory services are provided wholly incidental to their Type 1 regulated activity.</p> <p>In general, research analysts are required to be licensed for Type 4 regulated activity. In this scenario, they are also required to be licensed for Type 1 regulated activity due to their involvement in soliciting (or inducing) others to deal in securities.</p>



	Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)	Details of the Fee	Respondent's Comments/Enquiries	SFC's Response
<i>Provision of automatic trading services</i>				
(3)	-	-	<p>HKSA comments that the definition of Type 7 regulated activity (i.e. providing ATS) is too wide in the SFO. As it currently stands, it can apply to brokers who provide Internet trading, software houses selling trading systems as well as Electronic Communication Networks (“ECNs”). It considers that Internet trading is just another way for receiving trade orders that is no different from the current telephone system, and believes that it should not be subject to separate licensing requirement.</p>	<p>The SFO provides that where a stockbroker provides ATS in the form of Internet trading, it has to be licensed for Type 1 and Type 7 regulated activities.</p> <p>Although Type 7 relating to Internet broking is generally considered to form a part of the stockbroking activity (as reflected by the proposal to waive licensing fees in relation to Type 7), the SFC is of the view that Type 7 regulated activity has to be licensed separately because such activity normally calls for additional consideration on specific areas in respect of system integrity and controls, security measures and contingency issues.</p>
(4)	-	-	<p>Linklaters comments that it is unclear when a securities dealer or futures dealer needs to apply for a licence to provide ATS (Type 7)?</p> <p>Although there is no fee implication, it may be very significant in respect of on-going training and competence requirements for dealing staff.</p>	<p>The term “providing ATS” is defined in Schedule 5 to the SFO. For example, a dealer who conducts dealing activities through the Internet needs to be licensed for Type 7 regulated activity.</p> <p>In February 2002, the SFC published the “Guidelines for the Regulation of Automatic Trading Services”. The approach in regulating this type of regulated activity is set out in these Guidelines.</p> <p>The SFC is aware of this concern and is currently developing new guidelines relating to competence and training to address the issue. Meanwhile, no additional requirement, whether in terms of fee, competence or on-going training, will be imposed in this regard as compared to the current regime during the transitional period.</p>

	<b>Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)</b>	<b>Details of the Fee</b>	<b>Respondent's Comments/Enquiries</b>	<b>SFC's Response</b>
(5)	-	-	Hon. Henry WU comments that to be fair to all intermediaries, Internet brokers should pay licensing fees in relation to Type 7 regulated activity whilst the licensing fees for brokers not providing ATS should be reduced to reflect the cost of regulating ATS. He views that related regulatory cost should not be borne by those intermediaries not providing ATS.	As noted in (1)(iii) above, securities or futures dealing through the Internet is regarded as a part of the overall dealing business of a licensee. It is therefore inappropriate to identify specific activity (in this case Internet trading) within a regulated activity (Type 1 or Type 2) for the purposes of levying licensing fees. As in the current regime, the SFC does not intend to impose separate fees for different products or channels of service delivery in respect of the same business activity.
<b><i>Asset management</i></b>				
(6)	-	-	HKSA submits that while brokers managing discretionary accounts are asset management functions, it does not believe that the SFC intends to license brokers separately in this regard.  It also believes that Type 9 is more applicable to fund management companies that manage funds sold by public subscription.	Yes. Stockbrokers who manage discretionary accounts for clients incidental to their carrying on of dealing in securities are only required to be licensed for Type 1 regulated activity.  This is generally an accurate observation.
<b><i>Responsible officers</i></b>				
(7)	-	-	HKSA seeks confirmation as to whether the same "responsible officer" will be allowed to be appointed for several regulated activities under the new regime.	The SFC confirms that the same individual can be licensed as a responsible officer for one or more regulated activities as long as he can satisfy the SFC that he is fit and proper to be so licensed and there is no conflict of interest for him to carry out the regulated activities concerned at the same time.
(8)	-	-	HKSA comments that if a "responsible officer" needs to be licensed in several activities, the total costs should not be more than under the current system of registration.	As noted in (1) above, the SFC envisages that in general, responsible officers of stockbroker firms will incur licensing costs in relation to only one type of regulated activity (i.e. Type 1).

	Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)	Details of the Fee	Respondent's Comments/Enquiries	SFC's Response
				<p>In adopting the “no worse off” principle, where an existing registered person applies for a new licence in respect of such regulated activities for which he is deemed to have been licensed pursuant to Schedule 10 to the SFO, the annual fee to be payable by that person during the transitional period will be based on:</p> <p>(a) the number of licence(s) that he holds under the current regime immediately before commencement of the SFO; or</p> <p>(b) the number of regulated activity type(s) that he is licensed for under the SFO,</p> <p>whichever is less.</p>
(9)	-	-	<p>Linklaters comments that the requirement to appoint at least two responsible officers for each regulated activity appear to result in a multiplicity of fee payments because:</p> <p>(i) under the SFO, each responsible officer will also need to be a licensed representative of the licensed corporation. Two application fees, and two annual fees each year, therefore appear to be payable, even if only a single regulated activity is involved.</p>	<p>Fees payable for a responsible officer include the part of licensing as a representative (\$1,790) and the part of approval as a responsible officer (\$2,950). The total of \$4,740 (i.e. \$1,790 + \$2,950) is less than the existing application or annual fee payable for dealing/supervisory director amounting to \$4,900.</p> <p>The necessity to have at least 2 responsible officers for each type of regulated activity is provided by the legislation. It is noted that most corporate registrants under the current regime have appointed two or more dealing/supervisory directors for carrying out registrable activities. So, in effect they are no worse off under the new regime.</p> <p>Existing sole proprietors and certain corporations which have only one dealing/supervisory director may be affected by the new requirement. In this regard, the fee waiver proposed in respect of the additional responsible officer applicable during the transitional period will provide the necessary fee relief to the licensees concerned.</p>

	Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)	Details of the Fee	Respondent's Comments/Enquiries	SFC's Response
			(ii) Assuming that an individual is to be a responsible officer/licensed representative in respect of more than one type of regulated activity, it appears that a separate application fee and annual fee will be payable in respect of each type of regulated activity.	This is no different from the current regime in the sense that an existing registrant needs to pay application and annual fees in respect of different registrable activities, e.g. securities dealing and commodities trading.
(10)	-	-	<p>Linklaters comments that there may be increase in licensing costs because:</p> <ul style="list-style-type: none"> <li>(i) two responsible officers will be required in respect of each regulated activity;</li> <li>(ii) a person can become a responsible officer without being an executive director. It is thus likely that quite a large number of individuals who are not currently registered as “dealing directors” or “investment advisers” will apply to become responsible officers;</li> <li>(iii) some people who are already registered as a “dealing director” or “investment adviser” will need to become responsible officers in respect of more than one type of regulated activity.</li> </ul>	<p>See (7) and (9)(i) above.</p> <p>The person must, however, satisfy the SFC that he is fit and proper and has sufficient authority within the licensed corporation before he can become a responsible officer. In addition, so long as section 125(1) of the SFO is complied with, it is up to a licensed corporation's own decision as to whether a licensed representative of the corporation who is not an executive director will apply for approval as an responsible officer.</p> <p>As mentioned in (1), in principle, a person licensed for Type 1 regulated activity can carry out Type 4, Type 6 and/or Type 9 regulated activity without the necessity to be licensed for those latter activities if they are carried out incidental to Type 1.</p> <p>Whilst it appears that an “investment adviser” may need to be licensed for multiple regulated activities (i.e. Types 4, 6 and 9) under the new regime, in reality it is unlikely that the same individual will seek to be licensed for all 3 types of regulated activities in view of the specialized expertise required for each type of activities and the potential conflict of interest that may arise should such activities be conducted by the same individual at the same time, say carrying out Types 6 and 9 simultaneously.</p>

	Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)	Details of the Fee	Respondent's Comments/Enquiries	SFC's Response
			Linklaters suggests a waiver of fees in respect of applications made during the transitional period for persons becoming "responsible officers", whether for one or several regulated activities.	In adopting the "no worse off" principle, the SFC has already proposed the necessary fee waiver to relieve financially the affected licensees during the transitional period, e.g. the waiver mentioned in (9)(i) above.
<b><i>Transitional arrangement</i></b>				
(11)	-	-	<p>Linklaters considers that the application process for existing licensed persons to migrate to the new regime should be streamlined and simplified, and that existing licensed persons will effectively be "grandfathered" to the new regime.</p> <p>The respondents also comment that an existing licensed person may incur additional cost if he needs to pay an application fee for migration to the new regime in addition to the on-going annual fee.</p>	<p>The SFC is aware of the concerns about transitional arrangements and will endeavor to make the process of migration to the new regime as simple as possible. A detailed transitional guideline will be issued around September 2002 to assist intermediaries in this regard.</p> <p>The SFC notes that existing intermediaries will be largely "grandfathered" to the new regime as provided by the SFO in granting deemed licences or registrations during the transitional period.</p> <p>The SFC is fully aware of this concern and proposes that all fees payable for applications which are submitted solely for migration purposes will be waived. This is to ensure that during the transitional period, existing licensees and exempt persons will not incur extra licensing costs over and above the amounts they are required to pay under the current regime.</p>



	<b>Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)</b>	<b>Details of the Fee</b>	<b>Respondent's Comments/Enquiries</b>	<b>SFC's Response</b>
(13)	Item 6                       Item 7	<p>Fee payable on application by a corporation under section 117 of the SFO for a temporary licence to carry on any one Type, and per additional Type, of regulated activity (\$4,900)</p> <p>Fee payable on application by an individual under section 117 of the SFO for a temporary licence to carry on any one Type, and per additional Type, of regulated activity (\$1,850)</p>	<p>Linklaters comments that it is not clear why the fees payable to obtain temporary licences are higher than fees otherwise payable for a licence (i.e. the 3% discount has not been applied). While the cost difference is not substantial, having different fee amounts for comparable applications adds to the complexity of the new system.</p>	<p>Temporary licences are not eligible for the discount because the supervision of such licensees requires relatively more regulatory resources due to the temporary nature of their operations.</p>
(14)	Item 8	<p>Fee payable on application by a licensed representative under section 122(2) for additional accreditation(s) (\$200)</p>	<p>Linklaters suggests that no additional fee be payable for an individual to seek accreditation with more than one licensed corporation. Although the amount of the fee proposed by the SFC under item (8) of the Proposed Licensing Fee Schedule ("the Schedule") is not substantial, keeping a single standardized fee for an application to become a licensed representative would assist in streamlining the application process.</p>	<p>The SFC confirms that the fee under item (8) of the Schedule is payable on a per application basis. This is irrespective of the number of additional licensed corporations the individual concerned seeks to accredit to in the same application.</p>

	Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)	Details of the Fee	Respondent's Comments/Enquiries	SFC's Response
			Linklaters accepts that, if an application is subsequently made for additional accreditation, a fee should be payable. In this regard, they also seek confirmation as to whether the fee set out in item (8) of the Schedule is only payable once, irrespective of the number of licensed activities which the representative will be accredited to conduct for the additional licensed corporation in respect of which accreditation is sought.	Yes. See above.
(15)	Item 17  Item 28	Fee payable on application by a licensed corporation or licensed representative for amendment of the applicant's licence (\$200)  Fee payable on application by a registered institution for amendment of the certificate of registration (\$200)	Linklaters seeks clarification as to whether the fee set out in item (17) of the Schedule applies only where a licence is being amended for something like a change of name of the licensed person, and that this fee does not apply (as an addition to the fees otherwise specified in the Schedule) where an application is made for variation of the regulated activities specified in a licence.	Yes. Item (17) of the Schedule will be applicable only if the amendment does not result from any other application which is subject to separate payment of fee specified in the Fees Rules, e.g. application for variation of regulated activities, transfer of accreditation or approval of responsible officer.  The same interpretation also applies to amendments to certificates of registration under item (28) of the Schedule.



	<b>Reference to the Proposed Licensing Fee Schedule (i.e. Appendix 3 of the Consultation Document)</b>	<b>Details of the Fee</b>	<b>Respondent's Comments/Enquiries</b>	<b>SFC's Response</b>
(16)	Item 25	Annual fee payable under section 138(1) of the SFO by a registered institution, per Type of regulated activity (\$35,000)	<p>The Hong Kong Association of Banks is concerned about the possibility of double-charging banks in relation to the supervision of their securities business by both the SFC and the Hong Kong Monetary Authority (“HKMA”).</p> <p>It also comments that the moderate increase in fees for Registered Institutions is not specifically mentioned and accounted for.</p>	<p>The HKMA has confirmed that it does not intend to charge banks for supervising their securities business on top of the fees proposed by the SFC.</p> <p>The increase in annual fees for registered institutions reflects the enhanced regulatory oversight and effort by the HKMA. In this regard, the fees collected by the SFC will be shared with the HKMA.</p>
(17)	Item 29	Fee payable on application under section 130 of the SFO for approval of premises, or alternative premises, for keeping records or documents required under the SFO (\$1,000)	Linklaters seeks clarification on the scope of section 130 of the SFO. They note that “in the past, SFC officers have suggested that where records are maintained in computerized form, with the data center (and/or back-up facilities) being located somewhere other than the premises of the SFC licensed person, the data center or back-up facility needs to be approved by the SFC as being a place at which records of the business are kept (even though the records can be accessed on-screen at the registered person's premises in Hong Kong)”.	This is correct.

## List of Respondents

Date received	Respondent
2 April 2002	Hon. Henry WU
4 April 2002	The Hong Kong Association of Banks
8 April 2002	Linklaters (on behalf of Deutsche Securities Asia Limited, Goldman Sachs (Asia) L.L.C., Merrill Lynch (Asia Pacific) Limited, Morgan Stanley Dean Witter Asia Limited and Salomon Smith Barney Hong Kong Limited)
10 April 2002	Hong Kong Stockbrokers Association Limited