



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

Consultation Conclusions on the Draft Securities and Futures (Offences and Penalties) Regulations

《證券及期貨(罪行及罰則)規例》草擬本
諮詢文件總結

Hong Kong
September 2002

香港
2002年9月

Introduction

1. On 26 July 2002, the Securities and Futures Commission ("SFC") issued a Consultation Document to solicit comments on the Draft Securities and Futures (Offences and Penalties) Regulations (the "draft Regulations").
2. The draft Regulations will be made under section 398(6) of the Securities and Futures Ordinance (No. 5 of 2002) ("the Ordinance"). It makes it an offence (and sets out the penalty) for persons who fail to comply with the specified provisions of the Draft Securities and Futures (Miscellaneous) Rules (the "draft Miscellaneous Rules"). The draft Miscellaneous Rules contain a range of provisions which do not readily fit into other subsidiary legislation made under the Ordinance.
3. The consultation exercise ended on 16 August 2002.
4. It is advisable to read this document in conjunction with the Consultation Document.

Public Consultation

5. A press release regarding the consultation exercise was issued on 26 July 2002. The Consultation Document and the draft Regulations were posted on the website of the SFC and distributed to all registrants through the FinNet communication network.
6. The SFC received one submission from the Hong Kong Securities Institute which has gathered such comment from its member. This submission has been published in the SFC's website at <http://www.hksfc.org.hk>.

Consultation Conclusions

7. The draft Regulations proposed a penalty at level 6 (\$100,000) fine if a person licensed by or registered with the SFC fails to return his licence or certificate of registration to the SFC under circumstances prescribed in section 5¹ of the draft Miscellaneous Rules. It was submitted that the proposed fine is too high. Commentator suggested a fine at level 5 (\$50,000) and in the case of a continuing offence, to a further fine of \$2,000 for every day during which the offence continues.
8. The Ordinance has provided for a fine at level 6 (\$100,000) for an individual who fails to return his licence to the SFC. In view of this penalty level provided in the Ordinance, it is more appropriate to maintain the penalty at level 6 (\$100,000) fine only as proposed in the Consultation Document. As such, the SFC has determined that it is not necessary at this stage to provide

¹ This section has been re-numbered from section 6 to section 5 in the latest draft Miscellaneous Rules.

for a daily fine for ongoing offences. No changes have been made to the draft Regulations in response to this submission.

9. The SFC has not received comments concerning other provision of the draft Regulations.
10. The draft Regulations have been amended to reflect changes in the numbering of the provisions in the draft Miscellaneous Rules.

Final Note

11. The SFC would like to thank all industry practitioners and interested persons who have made valuable suggestions and comments in response to the Consultation Document.

**Securities and Futures Commission
September 2002**