



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

**Consultation Conclusions and Further Consultation  
on the Securities and Futures (Short Position  
Reporting) Rules**

18 October 2011



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## Foreword

On 25 May 2011, the Securities and Futures Commission (SFC) released a public consultation on the Securities and Futures (Short Position Reporting) Rules (Rules). This paper summarises the comments received to the consultation paper, provides the SFC's responses to the feedback and also further consults the public on Section 3(2) of the Rules which has been modified having regard to the market feedback.

### How to and the deadline to submit comments

Interested parties are invited to submit written comments by any one of the following methods on or before 4 November 2011:

On-line submission:	<a href="http://www.sfc.hk/sfc/html/EN/speeches/consult/consult.html">http://www.sfc.hk/sfc/html/EN/speeches/consult/consult.html</a>
Email:	shortpositions@sfc.hk
Post :	Supervision of Markets Division Securities and Futures Commission 8 <sup>th</sup> Floor, Chater House 8 Connaught Road Central Hong Kong
Fax:	(852) 2521 7917

A person commenting on the consultation paper should provide details of any organisation whose views he represents.

Please note that the names of the respondents and the contents of their submissions may be published on the SFC's website and in other documents to be published by the SFC. In this regard, please read the Personal Information Collection Statement attached to this consultation paper as Appendix B.

If you do not want your personal information, your submission or any part of it to be disclosed to the public, please state your request clearly in your submission. In this connection, the SFC will not regard a standard confidentiality statement in an email message as a request not to publish name and/or submission.



## Executive Summary

1. In this paper, we summarise and respond to the feedback we received to our Consultation on the Securities and Futures (Short Position Reporting) Rules (Consultation Paper) published on 25 May 2011<sup>1</sup>; and we also further consult on proposed changes to Section 3(2) of the Rules, as explained below.
2. The background to the Consultation Paper was that last March, the SFC announced the introduction of a new short position reporting requirement following a public consultation on increasing short position transparency. As the next implementation step, the SFC issued the Consultation Paper to consult the public on the Rules that will give effect to the short position reporting regime.
3. We received 23 written submissions to the Consultation Paper, one of which represented the views of a group of 16 financial institutions (Industry Group). The respondents span across market participants, listed companies, law firms and professional associations representing the views of their members.
4. A few respondents questioned about the need for introducing the short position reporting regime. This comment had already been addressed by the SFC in the conclusions paper to the previous consultation. The feedback from other respondents indicates broad market support for the Rules except Section 3(2). The following summarises the major comments:
  - (a) A group of respondents sought to clarify the reporting obligation in cases where the short position is held under joint ownership (such as in a partnership) and funds that do not take the form as unit trusts;
  - (b) Some respondents suggested the reporting template be modified by removing the “Position Composition” reporting field that requires flagging of a short position that is established on exchange or resulted from a combination of on- and off- exchange trades;
  - (c) Some others proposed that two business days be given for reporting short positions under circumstances prescribed in Section 5(1) of the Rules (i.e. in the event of a contingency) instead of one, as originally proposed;
  - (d) One raised the point that emergency intervention should be made under a more defined set of circumstances;
  - (e) A vast majority voiced concerns about making a breach of Section 3(1) of the Rules a strict liability offence.
5. The most notable area of interest is Section 3(2) of the Rules due to industry’s concerns with the existing market practices, operational arrangements, and implementation costs and time.
6. After carefully considering all comments received, the SFC decided to proceed as follows:
  - (a) We will be adopting the Rules as proposed, subject to modifications to Section 3(2) to address market concerns. Section B of this paper requests for comment on the revised Section 3(2);

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<sup>1</sup> <https://www.sfc.hk/sfcConsultation/EN/sfcConsultMainServlet?name=ShtPostRptRules>



- (b) We propose that only a contravention of Section 3(1), *without reasonable excuse*, should constitute an offence subject to the penalty: (i) on conviction on indictment is liable to a fine at level 6 and a term of imprisonment of two years; and (ii) on summary conviction, a fine at level 3 and a term of imprisonment of six months;
  - (c) The SFC will publish FAQs or guidance in due course to clarify and guide the market in complying with the reporting obligation under the Rules, which will address scenarios where more than one person beneficially owns a reportable short position such as in a partnership;
  - (d) The “Position Composition” reporting field will be dropped from the reporting template; and
  - (e) Reports of short positions made under circumstances prescribed in Section 5(1) will have to be submitted the next business day as proposed in the Rules.
7. The aim is to move quickly into implementing the short position reporting requirement. Towards this end, the SFC will work to publish the consultation conclusions as soon as possible following the close of the public consultation in Section B. Upon publication of the consultation conclusions, the Rules will be tabled for negative vetting by the Legislative Council.
8. To roll out the requirement, as noted in the Consultation Paper, the SFC will give the market reasonable lead time to get their reporting systems and procedures in place. On the other hand, it is important for market participants to start planning for this reporting obligation. Subject to the legislative process, we target to implement the short position reporting requirement by the end of Q1 2012.
9. This paper has two sections: Section A summarises and provides our feedback to the comments received and Section B is the consultative part that invites the public to comment on the revised Section 3(2) of the Rules. Appendix C lists non-confidential respondents.



## Section A

### SFC's responses to the comments received on the Rules

10. In this section, we respond to the feedback we received to the Consultation Paper.
11. We invited the public to comment on Part 2 of the Rules which sets out the obligation to report, timing to submit reports, the method of reporting and publication of reported information by the SFC; and Part 3 of the Rules that relates to the SFC's power to act in contingency situations.
12. We received 23 written submissions to the Consultation Paper, one of which represented the views of a group of 16 financial institutions (Industry Group). The respondents span across market participants, listed companies, law firms and professional associations representing the views of their members. We thank the respondents for their comments.

#### *Who to report*

13. All but one of the respondents agreed that the legal obligation to report should reside with the person who beneficially owns the short position and in cases where this may not be feasible, the obligation to report should rest on the person who would be best placed to know the total outstanding position. The one respondent took a different view that the focus of reporting should be on the person who controls the position. The SFC had considered this option but we believe this may lead to complications in some instances, such as, in the case of fund managers as explained at length in the Consultation Paper.
14. There was strong support for the approach that a trustee of a fund if the fund is constituted as a unit trust, rather than the fund manager, will have the responsibility to report the fund's overall short position.
15. On the other hand, the Industry Group and a handful of other respondents suggested that in cases where a fund takes the form of a corporate entity or a partnership the reports may be made by the primary fund manager, custodian or general partner of the fund. Our response to that suggestion is that, as mentioned in the Consultation Paper, our regulatory policy intention is, as a rule of thumb, the person/entity who beneficially owns the short position has the obligation to report. So, if a fund takes the form of a corporate entity, it is expected that the corporate entity will be responsible for the reporting under the Rules.
16. We will lay down FAQs or guidance in due course to clarify and guide the market in complying with the reporting obligation under the Rules in scenarios where more than one person beneficially owns a reportable short position. Our current thinking in this regard is that a robust reporting system should be established where one report by a designated partner or joint owner should be filed in respect of that reportable short position. So long as this report is filed by a designated partner or joint owner in accordance with the Rules, the SFC will not regard the other partners or joint owners as non-compliant.



17. As a few respondents were unsure whether agency reporting is allowed, it is worth clarifying this point. As reiterated in the Consultation Paper, for practical purposes, the party who has the statutory obligation to report may authorise its agent to do so on its behalf. For example, a corporate fund may authorise its investment manager to report the fund's overall short position as its agent. However, it must be understood that, in such circumstances, the principal would remain legally responsible for the reporting.

### ***When to report***

18. The Industry Group has concerns in reporting of "reportable short position" prescribed in Section 3(2) of the Rules. This section in the Rules defined the gross short position to be reported – that is, the accumulated open short position (any long position should not be taken into account) in any of the "specified shares"<sup>2</sup> at the end of a trading week. This position is not the net of long and short position in the same share. Our policy intention is to be furnished with data of short position on a gross basis (as opposed to net basis). The rationale was articulated in the conclusions paper to the Consultation on Increasing Short Position Transparency<sup>3</sup> that is: gross short positions would enable the SFC to gauge the maximum impact on the market if holders of these open short positions attempt to close them at the same time.
19. The Industry Group explained that the firms' current internal systems do not enable them to track the closing out of individual short sales to provide the day-end gross short position. To be able to do so would require considerable system enhancements to integrate data captured from systems that are currently operating independently (such as aligning the trading system to the stock borrowing and lending system to track closing out of short positions if the short sale was covered by loaned stock). Some of the firms also explained that their systems operate globally and thus the system enhancements would have implications for their operations in other markets.
20. Another added complication was that most of the firms' current trading infrastructure reports position on a net basis. A majority of the firms' trading activities are organised and conducted on a trading unit/book basis. Each trading unit/book has its own specified trading objectives or strategies and manages its own risks. Also each trading unit/book will monitor its long/short position and determine its net position by reference to its overall position. This is an approach that is acceptable under The Guidance Note on Short Selling Reporting and Stock Lending Record Keeping Requirements<sup>4</sup> and has been widely adopted by the firms. As such, the data captured by each trading unit/book at day end is a net position.
21. The Industry Group's case was, in view of the above and given the size and the global nature of the firms, the resource implications to reconfigure internal systems to furnish the data on gross short position required by the SFC would be significant.
22. Having regard to the Industry Group's concerns and explanations, we anticipate that requiring the firms to report short position on a gross basis as originally proposed would take longer to implement than reporting short position on a net basis. In particular, for the

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<sup>2</sup> "Specified shares" is defined in Section 2 of the Rules.

<sup>3</sup> Consultation on Increasing Short Position Transparency:

<https://www.sfc.hk/sfcConsultation/EN/sfcConsultFileServlet?name=incshtrpostrans&type=1&docno=1>

Consultation Conclusions on Increasing Short Position Transparency:

<http://www.sfc.hk/sfc/doc/EN/speeches/consult/consultationconclusion2march2010english.pdf>

<sup>4</sup> This guidance was issued to clarify the SFC's policy intent and positions on issues raised by industry so as to facilitate industry compliance with the governing provisions of short selling in the SFO.



latter, we expect the technological enhancements entailed should be much less and firms would be able to leverage on existing systems to collect the requisite data.

23. On balance, the SFC proposes that a person/legal entity will be required to report to the SFC short position on a net basis. The SFC would like to move forward with implementing the short position reporting regime. Proposing reporting short position on a net basis would be the more pragmatic course of action to progress the SFC's goal in enhancing its ability to access data on short positions, and to provide the market with more information about short selling activities without placing undue burden on the industry. We believe that having a set of data on short positions, be it gross or net, would bolster the SFC's ability to oversee the Hong Kong markets. Nevertheless, the SFC will assess whether the data on short positions provides us with sufficient information for our regulatory purpose, and if necessary, will consider adjusting the reporting requirement. This decision followed a thoughtful and thorough weighing of the market concerns and a careful rebalancing of these and the SFC's regulatory considerations.
24. Section 3(2) of the Rules will be modified as a result of the change. Section B of this paper invites the public to comment on the revised Section 3(2). The public consultation closes on 4 November 2011.

#### ***How to report***

25. The draft template we proposed to use for reporting requires the flagging in the "Position Composition" field to indicate a short position that is established on exchange (marked with a "S") or resulted from a combination of on- and off-exchange trades (marked with a "T").
26. The Industry Group and a handful of other respondents opposed to this flagging<sup>5</sup>. They explained that most financial institutions' reporting systems make no distinction between positions created on or off the exchange; compliance with the flagging requirement would entail significant costs and changes to the firms' booking systems and procedures.
27. We noted the respondents' concerns with resource implications associated with the need to re-design systems and booking methods to enable the firms to flag appropriately. On balancing the costs and benefits, the SFC decided to remove the "Position Composition" field from the template. We believe that the lack of this information would not undermine the informational value of the short position reports. In any event, if necessary, the SFC will contact the relevant short position holders to understand whether the short positions reported comprise those established off exchange.

#### ***Daily reporting in contingency situations***

28. The Industry Group proposed that two instead of one business days be given for reporting short positions pursuant to Section 5(1) of the Rules. They explained that, as global firms, they may face operational challenges in meeting the requirement given that their businesses span across the different time zones. Our response to this is we believe that it is critically important that the SFC receives timely information in a crisis and the time lag in reporting should be kept to a minimal. We regard that it is necessary under stressed market conditions that reporting of short positions to the SFC should be carried out by the next business day as currently envisaged in the Rules.

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<sup>5</sup> This group also previously objected to excluding short positions created via OTC trading from reporting .



29. Another respondent suggested the SFC considers a more quantitative approach in defining the circumstances “*which threaten or may threaten the financial stability of Hong Kong*” e.g. the Hang Seng Index dropped by a certain pre-set percentage. The SFC acknowledged that by providing a more defined set of circumstances would facilitate market compliance with the tightened requirements. However, we take the view that defining financial stability threats in terms of quantitative output would be putting unnecessary constraints on Section 5(1) and would potentially undermine efficacy of that provision, as information about quantitative indicators is but one of the factors which the SFC would need to consider to require more timely reporting. For the SFC to be effective in discharging its regulatory function, we believe it is necessary that the SFC has flexibility and should not be unduly constrained to respond in exceptional circumstances. To address any element of uncertainty, the Rules have thus provided that SFC must give mandatory notice of at least 24 hours prior to the enhanced reporting requirement taking effect.

### ***Penalty for breach***

30. We received considerable comments with regards to the SFC’s proposal to create a criminal offence for a breach of the short position reporting requirement. One or two were against criminalising the act of failure to report while a few disagreed with imposing criminal sanctions.
31. A vast majority of the respondents voiced some concerns in making a breach of Section 3(1) of the Rules a strict liability offence. After considering the market feedback, the SFC proposes that only a contravention of Section 3(1), *without reasonable excuse*, should constitute an offence. This approach is consistent with the provisions in the Securities and Futures Ordinance (Cap. 571) (SFO) for offences of a similar nature<sup>6</sup>.
32. We intend to recommend to the Chief Executive in Council to amend the Securities and Futures (Offences and Penalties) Regulation (Cap 571AH) to provide that a person who, without reasonable excuse, contravenes Section 3(1) of the Rules commits an offence and is liable, on conviction on indictment to a fine at level 6 and a term of imprisonment of two years, and on summary conviction to a fine at level 3 and a term of imprisonment of six months. This would be in line with the penalties already prescribed in the SFO, and other rules made by the SFC<sup>7</sup>, for offences of a similar nature.

### ***Drafting of subsidiary legislation and operational suggestion***

33. We received little comment on the text of the Rules and the one or two comments received did not warrant any changes to the draft as proposed in the Consultation Paper, except for Section 3(2) as explained in paragraphs 18 to 24 above. Consequently, the SFC will be adopting the Rules as proposed in the Consultation Paper subject to modifications to Section 3(2).
34. A number of the Industry Group members have suggested that an updated list of the “specified shares” be fed to data providers (e.g. Reuters or Bloomberg) and to The Stock Exchange of Hong Kong Ltd so that firms that are subscribers to these services will be notified automatically of any changes to the list. The SFC will further explore this suggestion with the industry and the market.

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<sup>6</sup> For example, Section 328 of the SFO and Section 8 of Securities and Futures (Contracts Limits and Reportable Positions) Rules.

<sup>7</sup> See footnote 6.



## Section B

### Further consultation on the Securities and Futures (Short Position Reporting) Rules

35. As discussed and explained in paragraphs 18 to 24 above, after considering the comments received, the SFC decided that a person/legal entity will be required to report to the SFC short position on a net basis. Section 3(2) of the Rules is modified as a result of the change. Appendix A to this paper contains the draft Rules with changes to Section 3(2) lined for easy reference.
36. It is our policy intent that a person (including an individual and a corporate entity) shall, in order to determine its net short position, aggregate all of its positions in the share. With regards to a legal entity that organises and conducts its trading activities on a trading unit/book basis, each of which has its own trading objectives and strategies, the SFC expects the legal entity aggregates the net short positions of the trading units/books, and reports to the SFC, the consolidated net short position of the different trading units/books if the reporting threshold is hit. There should not be any netting off positions against different trading units/books. The SFC will issue a guide in this regard. As an illustrative example:

#### Legal Entity X

	Trading Book A		Trading Book B		Trading Book C	
1	<b>Bought shares</b>	500	<b>Bought shares</b>	3,000	<b>Bought shares</b>	1,000
2	<b>Sold shares</b>	-800 (500 long sale and 300 covered short)	<b>Sold shares</b>	-4,000 (3,000 long sale and 1,000 covered short)	<b>Sold shares</b>	-1,500 (1,000 long sale and 500 covered short)
3	<b>Bought shares</b>	200	<b>Bought shares</b>	5,000	<b>Bought shares</b>	300
	<b>Day-end net position</b>	-100 (net short)	<b>Day-end net position</b>	4,000 (net long)	<b>Day-end net position</b>	-200 (net short)

In determining whether it has a reportable short position, legal entity X should not net positions of Trading Books A, B and C. In other words, it should aggregate the net short positions of Trading Books A and C but disregard the net long position of Trading Book B. Legal entity X will have to report its total net short position of 300 (aggregated net short positions of Trading Books A and C) if it hits the reporting threshold.

37. We invite the public to comment on the revised Section 3(2). Please note that the consultation closes on 4 November 2011.



## Concluding Remarks

38. This paper summarises the comments received to the Consultation Paper, sets out our responses to the feedback and it also further consults the public on Section 3(2) of the Rules, which has been modified having regard to the market feedback.
39. Subject to the legislative process, we target to implement the short position reporting requirement by the end of Q1 2012. Towards this end, the SFC will work to publish the consultation conclusions as soon as possible following the close of the public consultation in Section B. Upon publication of the consultation conclusions, the Rules will be tabled for negative vetting by the Legislative Council.
40. We will inform the market of the implementation timetable in due course. We encourage market participants to start planning for this new reporting obligation.



## Appendix A

### SECURITIES AND FUTURES (SHORT POSITION REPORTING) RULES

(made by the Securities and Futures Commission under section 397(1) of the Securities and Futures Ordinance (Cap. 571), and under section 397(2) of that Ordinance after consultation with the Financial Secretary)

#### PART 1

#### PRELIMINARY

##### 1. Commencement

- (1) Subject to subsection (2), these Rules come into operation on [date].
- (2) Section 4 comes into operation on a day to be appointed by the Commission by notice in the Gazette.

##### 2. Interpretation

In these Rules –

“business day” has the meaning given by section 1 of Part 1 of Schedule 1 to the Ordinance except that it does not include Saturday;

“reportable short position” has the meaning given by section 3(2);

“reporting day” means –

- (a) Friday, or if the Stock Exchange does not open for trading on that day, the last weekday before Friday on which the Stock Exchange is open for trading; or
- (b) when a notice under section 5(1) is in force, each day on which the Stock Exchange is open for trading;

“reporting deadline” means –

- (a) within two business days after the reporting day; or
- (b) when a notice under section 5(1) is in force, within one business day after the reporting day.

“specified ATS” means an authorized automated trading service specified in Schedule 2;

“specified shares” means shares in a corporation which are listed or admitted to trading on the Stock Exchange and specified in Schedule 1;

“Stock Exchange” means the recognized stock market operated by the Stock Exchange Company.



## PART 2

### REPORTABLE SHORT POSITIONS

#### 3. Notice of reportable short positions to be given to the Commission

- (1) Subject to subsection (3), a person who beneficially owns a reportable short position at the close of trading on the Stock Exchange on the reporting day must notify the Commission in accordance with this section by the reporting deadline.
- (2) For the purposes of subsection (1), a person has a reportable short position when the person has a position in specified shares -
  - (a) as a result of selling specified shares at, on, through or by means of any one or more of the Stock Exchange or a specified ATS where –
    - (i) at the time of each sale comprised in the position, the person did not have a presently exercisable and unconditional right to vest the shares in the purchaser; or
    - (ii) each sale comprised in the position was the subject of a short selling order; and
  - (b) the number of specified shares in the position remaining after deducting the number of specified shares beneficially owned by the person (if any), multiplied by the closing price of the specified shares on the reporting day as determined in accordance with the rules of the Stock Exchange (or, if on the reporting day the shares are suspended from trading on the Stock Exchange, the last closing price before the suspension) is equal to or more than the lower of –
    - (i) 0.02% of that closing price multiplied by total number of specified shares issued by the corporation; and
    - (ii) \$30 million.
- (3) Where a position in specified shares is held on trust –
  - (a) subsection (1) does not apply to a beneficiary of the trust and instead applies to the person who is the trustee of the trust; and
  - (b) in determining whether that person has a reportable position, the position in specified shares attributable to each such trust is to be treated separately and not aggregated.
- (4) A notice required to be submitted to the Commission under subsection (1) must -
  - (a) be in the form specified by the Commission under section 402 of the Ordinance for the purposes of this section;
  - (b) contain the particulars specified in the form including particulars relating to the person and the reportable short position; and
  - (c) be submitted to the Commission electronically by means of an online communication system approved by the Commission under subsection (5) for the purposes of this section
- (5) The Commission may, for the purposes of this section, approve an online communication system.
- (6) Where the Commission approves an online communication system under subsection (5), it must as soon as reasonably practicable publish directions and instructions for the use of that



system in the manner that it considers appropriate.

#### **4. Commission to publish particulars of reported short positions**

- (1) Subject to subsections (2) and (3), the Commission must, as soon as reasonably practicable after the reporting deadline, publish such particulars of the reportable short positions notified to it under section 3(1) as it considers appropriate.
- (2) Subsection (1) does not require the Commission to publish particulars –
  - (a) earlier than five business days after the reporting day; or
  - (b) when a notice under section 5(1) is in force, more frequently than once a week.
- (3) Any particulars published under subsection (1) must be, so far as reasonably practicable, presented in a way which prevents the identity of a person who has submitted a notice under section 3(1) and that person's reportable short position being ascertained from it.
- (4) Particulars published under this section are not subsidiary legislation.

### PART 3

#### DAILY REPORTING REQUIREMENTS

#### **5. Commission may require daily reporting**

- (1) The Commission may publish a notice in accordance with this section declaring that paragraph (b) of the meanings given by section 2 to "reporting day" and "reporting deadline" will have effect from the date specified in the notice, if the Commission believes that –
  - (a) circumstances exist, in Hong Kong or elsewhere, which threaten or may threaten the financial stability of Hong Kong; and
  - (b) as a result of those circumstances, the Commission needs to be notified of reportable short positions on a daily basis.
- (2) A notice under subsection (1) must be –
  - (a) published on the Commission's website at least 24 hours before the date specified in the notice; and
  - (b) published or announced in the ways (if any) and at the times that the Commission considers appropriate to bring the notice to the attention of persons likely to be affected by the notice.
- (3) If a notice published under subsection (1) is in force and the Commission believes that it no longer needs to be notified of reportable short positions on a daily basis, the Commission must publish on its website a notice declaring that the notice under subsection (1) will cease to have effect from the date specified in the notice.
- (4) A notice published under subsection (1) or (3) is not subsidiary legislation.



## SCHEDULE 1

[section 2]

### SPECIFIED SHARES

1. Shares which are a constituent of the Hang Seng Index.
2. Shares which are a constituent of the Hang Seng China Enterprises Index.
3. Shares which are –
  - (i) determined by the Stock Exchange to be a “designated security” in accordance with the rules of the Stock Exchange; and
  - (ii) classified by the Hang Seng Indexes Company Limited as financial stocks in accordance with the Hang Seng Industry Classification System.



## SCHEDULE 2

[section 2]

### SPECIFIED ATS

**Note:** the Commission intends to recommend to the Chief Executive in Council that the Securities and Futures (Offences and Penalties) Regulation (Cap. 571AH) be amended pursuant to section 398(6) of the Securities and Futures Ordinance (Cap. 571) to provide that a person who contravenes section 3(1) commits an offence and is liable on conviction to a penalty to be specified. The maximum penalties that may be specified by the Chief Executive in Council are –

- (a) on conviction on indictment a fine of \$500,000 and a term of imprisonment of 2 years;
- (b) on summary conviction a fine at level 6 and a term of imprisonment of 6 months.



## Appendix B

### 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 Data<sup>8</sup> 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 Personal Data (Privacy) Ordinance, Cap. 486 (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:
  - (a) To administer the relevant provisions<sup>9</sup> and codes and guidelines published pursuant to the powers vested in the SFC;
  - (b) In performing the SFC's statutory functions under the relevant provisions;
  - (c) For research and statistical purposes;
  - (d) For other purposes permitted by law.

#### Transfer of personal data

3. Personal Data may be disclosed by the SFC to members of the public in Hong Kong and elsewhere, as part of the public consultation on this consultation paper. The names of persons who submit comments on this 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's website and in documents to be published by the SFC during the consultation period or at its conclusion.

#### 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 this consultation paper. The SFC has the right to charge a reasonable fee for processing any data access request.

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<sup>8</sup> Personal Data means personal data as defined in the Personal Data (Privacy) Ordinance.

<sup>9</sup> Defined in Schedule 1 of the SFO to mean provisions of the SFO and subsidiary legislation made under it; and provisions of Parts II and XII of the Companies Ordinance (Cap. 32), so far as those Parts relate, directly or indirectly, to the performance of functions relating to: prospectuses; the purchase by a corporation of its own shares; a corporation giving financial assistance for the acquisition of its own shares, etc.



## **Retention**

5. Personal Data provided to the SFC in response to this consultation paper will be retained for such period as may be necessary for the proper discharge of the SFC's functions.

## **Enquiries**

6. Any inquiries regarding the Personal Data provided in your submission on this consultation paper, or requests for access to Personal Data or correction of Personal Data, should be addressed in writing to:

The Data Privacy Officer  
Securities and Futures Commission  
8<sup>th</sup> Floor, Chater House  
8 Connaught Road Central  
Hong Kong

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



### Lists of non-confidential respondents

(in alphabetical order)

1. Alternative Investment Management Association (AIMA)
2. Clifford Chance
3. ComplianceAsia Consulting Ltd
4. Deacons
5. HK Securities Professionals Association (HKSPA)
6. Hong Kong Investment Funds Association (HKIFA)
7. Linklaters on behalf of 16 financial institutions
  - i. Barclays Capital Asia Limited
  - ii. Citigroup Global Markets Asia Limited
  - iii. Credit Suisse (Hong Kong) Limited
  - iv. Deutsche Bank AG, Hong Kong branch
  - v. Goldman Sachs (Asia) L.L.C.
  - vi. J.P. Morgan Securities (Asia Pacific) Limited
  - vii. Macquarie Capital Securities Limited
  - viii. Merrill Lynch Asia Pacific Limited
  - ix. Mizuho Securities Asia Limited
  - x. Morgan Stanley Hong Kong Securities Limited
  - xi. Nomura International (Hong Kong) Limited
  - xii. Societe Generale
  - xiii. Standard Chartered Bank (Hong Kong) Limited
  - xiv. The Hongkong and Shanghai Banking Corporation Limited
  - xv. The Royal Bank of Scotland plc
  - xvi. UBS AG
8. Pan Asia Securities Lending Association Limited (PASLA)
9. Timothy Loh Solicitors