

**OVERSEAS STABILISATION (HONG KONG)
INSTRUMENT 2003**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers in the Financial Services and Markets Act 2000 (the “Act”):
- (1) section 144 (Price stabilising rules);
 - (2) section 156 (General supplementary powers); and
 - (3) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) of the Act (Rule-making instruments).

Commencement

- C. This instrument comes into force on 1 January 2004.

Amendments to MAR

- D. The Market conduct sourcebook is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Overseas Stabilisation (Hong Kong) Instrument 2003.

By Order of the Board
20 November 2003

Annex

Amendments to the Market conduct sourcebook

In this Annex underlining indicates new text and striking through indicates deleted text.

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2.8 Overseas Stabilisation

2.8.1G Under sections 144(3) and (6) of the *Act*, the *FSA* may make *rules* which confer a “safe harbour” in respect of one type of market manipulation (section 397(3)) on *persons* who act in conformity with specified provisions of foreign laws. Under that power, the *FSA* “specifies” certain legislative provisions having effect in the United States of America ~~and in~~ Japan and Hong Kong. It should be noted that conformity with these provisions may assist in proceedings under section 397(3) but not in proceedings under section 397(2) nor in proceedings under Part V of the Criminal Justice Act 1993 (insider dealing). This is because of the wording of section 144(3).

- 2.8.2R (1) A person who, in any place outside the *United Kingdom*, acts or engages in conduct:
- (a) for the purposes of stabilising the price of *investments*; and
 - (b) in conformity with the provisions specified in (2) ~~or, as the case may be, in (3);~~ (3) or (3A); and
 - (c) ...

(2) ...

(3) ...

(3A) In relation to Hong Kong, the specified provisions are:

The Securities and Futures (Price Stabilizing) Rules, Cap. 571W made by the Hong Kong Securities and Futures Commission.

(4) ...

(5) The provisions in (2), (3) and ~~(3)~~(3A) are specified as they have effect from time to time, so long as this paragraph has effect.

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