

Wash Sales in Securities

A "wash sale" is a purchase or sale of any securities that does not involve a change in the beneficial ownership of those securities. Section 197(1) of the Securities and Futures Act ("SFA") prohibits any person from creating or doing anything that is intended or likely to create a false or misleading appearance of active trading in any securities on a securities market, or with respect to the market for, or the price of, such securities. Wash sales could have the effect of creating such false or misleading appearances. Under Section 197(3) read with Section 197(4) of the SFA, a person engaging in wash sales in securities is deemed to have created a false or misleading appearance of active trading in securities on a securities market unless the person establishes that the purpose or purposes for which he conducted the wash sales was not, or did not include, the purpose of creating a false or misleading appearance of active trading in securities on a securities market. Section 197(2) of the SFA also prohibits maintaining, inflating, depressing or causing fluctuations in the market price of any securities by means of wash sales.