

Updating Your Study Manual

Instructions for Inserting Version 1.1, 2003

The followings serve as the instructions for updating **Topic 4: Licensing and Subsidiary Legislation** of Study Manual 1 for the Licensing Examination for Securities and Futures Intermediaries. Please be reminded that only the updated sections are provided for downloading. You may replace the relevant sections with this updated version for the study manual you possess.

Instructions:

1. Download and print out the following pages.
 2. **Remove** pages 4-7 to 4-8 and **Insert** new pages 4-7 to 4-8.
 3. **Remove** pages 4-29 to 4-30 and **Insert** new pages 4-29 to 4-30.
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Exclusions from regulated activities

1.8 There are certain persons some of whose activities might otherwise fit into the descriptions of regulated activities listed in Part 1, Schedule 5, but for the fact that these are specifically excluded from the definitions of regulated activities given in Part 2 of the Schedule. These will not need licensing in respect of such activities. They include:

- professional accountants, solicitors and counsels conducting Types 4, 5, 6 and 9 activities that are wholly incidental to their professions (see paragraph 1.9 below);
- trust companies conducting Types 4, 5, 6 and 9 activities wholly incidental to the discharge of their trustee duties;
- persons licensed to conduct Type 9 activities who carry out Types 1 and 2 activities solely for the purposes of their Type 9 activities; and
- corporations carrying out Types 4, 5, 6 and 9 activities solely for their wholly owned subsidiaries, holding companies holding all their issued shares or other wholly owned subsidiaries of the holding company.

The above list of activities and persons conducting them comprise only some of the exclusions from the licensing requirements and readers wishing to identify the full list should refer to Schedule 5, SFO.

Solicitors and accountants

1.9 The position regarding solicitors and accountants referred to in paragraph 1.8 above is further clarified in the 'Frequently Asked Questions' available on the SFC's website.

Temporary licences (ss.117/121) / provisional licences (s.120)

1.10 The SFC may grant temporary licences for periods not exceeding 3 months, subject to conditions, to corporations who principally carry on their business overseas allowing them to conduct SFC regulated activities (other than Types 3 and 7 to 9) in Hong Kong. Representatives of licensed and temporarily licensed corporations may be given temporary licences for periods not exceeding 3 months for the same purpose. The total period for

which a temporary licence is held may not exceed in the aggregate 6 months over a 24 month period.

- 1.11 Applicants for representative licences may on application be given provisional licences to cover the period before the decision on a licensing application is finalised by the SFC. The provisional licences shall be revoked upon the refusal by the SFC to approve the representative licence application or upon the licence being granted.

Use of titles

- 1.12 Unlicensed or unregistered persons may not use titles specified in Schedule 6. For example a person not licensed for Type 1 activity cannot describe himself as a bond broker, bond dealer, securities dealer, stock dealer or stockbroker (refer to Schedule 6 for a full list).

The licensing information booklet

- 1.13 This booklet gives full details of how to apply for a licence and the various requirements. [The version issued in August 2003 has been updated to align with the SFO and the new subsidiary legislation.](#)

Revision question:

Question 1: What is the status of an executive director of a licensed corporation?

Fitness and properness

- 1.14 The corporate (including officers) and individual applicants for licensing and registration have to satisfy fitness and properness tests. These relate to:
- financial status;
 - educational and other qualifications or experience;
 - ability to carry on the regulated activity competently, honestly and fairly; and

Note: A margined transaction refers to a contract which requires a client entering into the contract to pay a margin to the intermediary or provide security other than under a financial accommodation agreement.

Monthly statement of account

- 6.7 A monthly statement must be prepared by an intermediary for all clients with full details of opening and closing holdings, balances, open positions, margins held etc. and issued within 7 business days of the end of each monthly accounting period (which can be 4 weekly cycles and not necessarily calendar months; also portfolio asset managers are allowed 10 business days for issuing statements) to the client or his designated person. The only case when no monthly statement needs to be issued is if there is absolutely no action whatsoever on the account during the month and no balances at the end of it.
- 6.8 An asset manager need not prepare monthly statements of account for authorized collective investment schemes that it manages.

(For more details regarding the above please refer to the Rules.)

Receipts

- 6.9 Receipts should be issued by an intermediary or an associated entity on receiving client assets by the end of the next business day after the day of receipt. No receipts are required to be given in some cases where the client has received satisfactory confirmation in other ways.

Other matters

- 6.10 The general rule is that a client is entitled as soon as practicable:
- to receive copies of contract notes, statements of account and receipts upon his request; and
 - upon applying to the SFC, and subject to the SFC giving directions, to inspect copies of contract notes, statements of account and receipts kept by the intermediary.
- 6.11 The intermediary or associated entity must retain:
- contract notes, daily statements of account and receipts issued for a period of 2 years; and
 - monthly statements of account for a period of 7 years.

- 6.12 An intermediary or associated entity that becomes aware of a failure to comply with the provisions of these Rules must notify the SFC within one day. If it fails to comply with the Rules without reasonable excuse it will have committed an offence and may be fined.

Revision questions:

Question 11: Do the Contract, Statements of Account and Receipts Rules apply to professional investors?

Question 12: What is the difference between contract notes and statements of account?

7 Audit

- 7.1 Provisions relating to audit and accounting matters are contained in ss.153 to 163, SFO and were discussed in paragraphs 7.16 to 7.27 of Topic 3.

Securities and Futures (Accounts and Audit) Rules (Referred to as ‘the Rules’ in this section)

- 7.2 The SFC has made the Securities and Futures (Accounts and Audit) Rules specifying the form and contents of financial statements and other documents that licensed corporations and associated entities of intermediaries should prepare and the content of auditors’ reports.

Financial statements

- 7.3 The Rules require the preparation of accounts for **each financial year** consisting of a profit and loss account, a balance sheet and **notes to the accounts** for licensed corporations, associated entities of an intermediary and cessation accounts for each of these if they cease to carry on regulated activities or cease to remain as associated entities respectively.
- 7.4 In the case of active licensed corporations, supplementary information as at the end of the financial year, as specified in the Rules will have to be prepared including liquid capital calculations, a business and risk