

## Updating Your Study Manual

### Instructions for Inserting Version 1.6

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The followings serve as the instructions for updating **Topic 9: Market Misconduct, Improper Trading Practices and Compliance** 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.

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#### **Instructions:**

1. Download and print out the following pages.
  2. **Remove** pages 9-17 to 9-18      and      **Insert** new pages 9-17 to 9-18.
  3. **Remove** pages 9-25 to 9-26      and      **Insert** new pages 9-25 to 9-26.
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transferred and of his rights to access and to request the correction of the data.

- *Principle 2 – accuracy and duration of retention of personal data:*
  - Personal data should be accurate, up to date and kept no longer than necessary and should be rectified if known to be incorrect.
- *Principle 3 – use of personal data:*
  - Personal data should not, without the consent of the data subject, be used for any purpose other than that for which it was collected or a directly related purpose.
- *Principle 4 – security of personal data:*
  - All practicable measures should be taken to ensure that personal data are protected against unauthorized or accidental access, processing, erasure or other use.
- *Principle 5 – information to be generally available:*
  - All practicable steps shall be taken to ensure that a person can ascertain a data user’s policies and practices relating to personal data, can be informed of the kind of personal data held, and can be informed of the main uses of the data.
- *Principle 6 – access to personal data:*
  - A data subject shall be entitled to ascertain whether data of which he is the subject are held, request and receive access to his personal data within a reasonable time at a reasonable fee and in an intelligible form, and to request corrections to the data and to be given reasons for any refusals in relation to the above and to object.

Revision question:

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Question 7: If the information held by the intermediary is incorrect what can the [data subject](#) do?

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## 14 Compliance and related issues

### Introduction

- 14.1 We shall close our review of the regulatory framework by considering the overall law codes and practices and how intermediaries can ensure that they have a proper regulated environment within which they may achieve their business objectives.
- 14.2 The basic principle is that an intermediary should ensure that a good compliance philosophy is established throughout its operations, and that all directors and employees fully understand its practical applications and conduct themselves at all times in a manner consistent with the highest expectations of clients, the market, the regulators and Government.
- 14.3 We shall review some of the areas that an intermediary and its staff should bear in mind when they conduct business activities externally and internally. It is important, to quote from one intermediary that they should not ‘conduct their business on the borders of the regulatory requirements but well within the boundaries of ethical conduct and professional competence’.

### The role of senior management

- 14.4 As we have seen earlier senior management must provide the leadership and drive to promote, encourage and enforce if necessary good compliance practices. It must install:
- good line and reporting structures;
  - clearly defined functions and responsibilities;
  - effective communications;
  - appropriate transparency and disclosure practices,
  - well defined policies, practices and procedures which are set out in writing;
  - distinctions between supervisory and review functions and operational and line functions;
  - good relationships with external agencies such as regulators and auditors;
  - open access for complaints which should be promptly and satisfactorily dealt with from the point of view of the complainant as well the business;
- and

- The six principles of data protection in the PDPO cover the purpose and manner of data collection, its accuracy and the duration of retention, the use to which it is put, the availability of the data and access to it of the data subject person.
- The role of senior management is key to establishing a good compliance culture in an intermediary. (Refer to paragraph 14.4 for specific issues they must consider).
- Corporate governance is the system by which business corporations are directed and controlled and covers the relationships between a company's management, its board, its members, and stakeholders.
- Stakeholders in a public company include all of the above plus employees, creditors, customers, its regulators etc.
- Good corporate governance may include good checks and balances on the Board, directors and management adequate transparency and disclosure of material facts and information to stakeholders, strong regulatory structures, protective measures for minority shareholders and the identification and sanctioning of corporate wrong doing.
- Good compliance may be strengthened by good internal controls and the proper management of external relationships with regulators and other authorities.

## Answers to revision questions

- Answer 1: The SFC may refer the case to the FS for instituting civil proceedings, to the Secretary of Justice for possible criminal prosecution, or may prosecute for minor offences summarily in a Magistrate's Court.
- Answer 2: Relevant information is information about the corporation, its members or officers, or its securities, which is generally not known to persons who invest in, or might be likely to invest in, the securities of the corporation, and if generally known to them is likely to materially affect the price of securities.
- Answer 3: Prima facie, this is likely, but this will have to be proved with evidence.
- Answer 4: False trading includes actions or transactions by a person to create a false or misleading appearance of active trading or to give a such an impression about a market or price. Price rigging is an attempt to maintain, increase, reduce, stabilise or cause fluctuations in the price of securities by wash trades, or in the price of securities or futures contracts by fictitious or artificial transactions.
- Answer 5: There must be two or more transactions carried out by someone which by themselves or with other transactions, have the effect or likely effect of increasing, decreasing, maintaining or stabilising the price of securities thereby influencing the investment decisions of other persons.
- Answer 6: It is the intentional, reckless or negligent disclosure of false or misleading information, which is material, and is likely to induce investors to make investment decisions relating to securities or futures contracts or is likely to increase, reduce, maintain or stabilise prices. If there is negligence, it would give rise to civil proceedings, if the disclosure is intentional or reckless it may be a criminal offence or give rise to civil action.
- Answer 7: The [data subject](#) is entitled to ask for the data to be corrected. If this is refused the person can report the matter to the SFC and the Privacy Commissioner.
- Answer 8: It is the system by which corporations are directed and controlled and include, the relationships between the board, the management, the members, and the stakeholders.
- Answer 9: The appointment of sufficient independent non-executive directors, effective audit committees (who will deal directly with auditors), remuneration committees (who will approve directors and employee remuneration and benefits), etc. (Refer to paragraph 14.8).