

# LE Paper 18 (Regulation of Providing Depository Services)

## Syllabus

### *Topic 1: General regulatory framework*

- 1 Regulators
- 2 General regulations issued by the Securities and Futures Commission (“SFC”) and applicable to RA13 depositories
- 3 Licensing and registration requirements under the Securities and Futures Ordinance (“SFO”)
- 4 Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (“Code of Conduct”)
- 5 Open-ended fund companies (“OFCs”)
- 6 Personal data
- 7 Prevention of money laundering and terrorist financing
- 8 Corporate governance and regulatory supervision

### *Topic 2: RA13 related conduct requirements*

- 1 Ongoing notification requirements
- 2 Capital requirements
- 3 Client securities
- 4 Client money
- 5 Record keeping
- 6 Accounts and audit
- 7 Schedule 11 to the Code of Conduct
- 8 Management, Supervision and Internal Control Guidelines for Persons Licensed by or Registered with the Securities and Futures Commission (“ICG”)

### *Topic 3: RA13 related product regulations*

- 1 SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products (“Handbook”)
- 2 Collective investment schemes (“CISs”): authorisation
- 3 Authorised CISs: investment requirements

- 4 Authorised CISs: other authorisation requirements
- 5 Code on Open-Ended Fund Companies (“OFC Code”)
- 6 Real estate investment trusts
- 7 Pooled retirement funds
- 8 Reporting and record keeping obligations for over-the-counter derivative transactions and the related exemptions

#### ***Topic 4: Misconduct***

- 1 Market misconduct provisions under the SFO
- 2 Consequences of market misconduct
- 3 Enforcement actions

## Expected Learning Outcomes (“ELOs”)

### *Topic 1: General regulatory framework*

The candidates should be able to recap and demonstrate their understanding of the general regulatory framework that they have acquired and assessed in LE Paper 1 to enable them to apply the general requirements and principles, especially those restrictions applicable to depositaries, when they conduct Type 13 regulated activities.

The candidates are expected to:

- (a) describe the guiding principles and objectives of the key regulators including SFC, the Mandatory Provident Fund Schemes Authority, the Insurance Authority and the Hong Kong Monetary Authority, and the cooperative efforts among regulators in areas where their regulatory mandates overlap;
- (b) describe the roles and functions of the SFC, its committees and divisions;
- (c) list the various products, services, major participants of depositary industry and define key terminologies involved;
- (d) describe the general regulations issued by the SFC and applicable to the depositaries and provisions governing offers of investments in Part IV of the SFO;
- (e) describe the nature of public OFC and the special provisions affecting them in Part IVA of the SFO;
- (f) describe the general licensing and registration requirements and restrictions on conducting Type 13 regulated activities under the SFO;
- (g) identify and describe the requirements as specified in the SFC’s Guidelines on Competence and Fit and Proper Guidelines;
- (h) identify and apply the general principles and other requirements of the Code of Conduct to practical matters related to client assets and conflict of interest;
- (i) describe the main operative provisions of the Securities and Futures (Open-ended Fund Companies) Rules relating to public OFC and how they affect the formation and subsequent operation of OFCs;

- (j) describe general principles guiding the handling of personal data under the Personal Data (Privacy) Ordinance;
- (k) describe the key anti-money laundering and counter-terrorist financing (“AML/CFT”) related legislations in Hong Kong and the steps applicable to the identification and reporting of money laundering and terrorist financing (“ML/TF”);
- (l) describe how to effectively adopt risk-based approach to identify suspicious circumstances and ML/TF risks that arise in relation to third parties and implement necessary AML/CFT policies and procedures to manage and/or report the ML/TF risks;
- (m) describe how senior management should direct and supervise a business, as well as identify the common good features and deficiencies in corporate governance;
- (n) describe the mechanisms by which the SFC exercises its regulatory mandate to supervise the industry;
- (o) describe the principles applied by the SFC in exercising its enforcement powers under the SFO.

### ***Topic 2: RA13 related conduct requirements***

The candidates should exhibit a comprehensive understanding of the requirements outlined in the SFO and subsidiary legislations, such as the Securities and Futures (Financial Resources) Rules, Securities and Futures (Client Securities) Rules, Securities and Futures (Client Money) Rules, Securities and Futures (Keeping of Records) Rules, Securities and Futures (Accounts and Audit) Rules, Securities and Futures (Licensing and Registration) (Information) Rules, and Securities and Futures (Associated Entities-Notice) Rules (where applicable) pertaining to Depositaries.

The candidates are expected to:

- (a) describe and apply the requirements of SFO and subsidiary legislations on ongoing notification, capital requirements, client securities, client money, record keeping, accounts and audit for Depositaries;
- (b) explain the importance of Schedule 11 of the Code of Conduct to Depositaries and the specific requirements under Schedule 11;

- (c) apply the Schedule 11 of the Code of Conduct to the delegates or third parties appointed or engaged to carry out activities relevant to the Depositories;
- (d) identify and explain the matters relating to business operations in the ICG;
- (e) identify and describe the key role of senior management of the intermediaries in directing their businesses under the ICG.

### ***Topic 3: RA13 related product regulations***

The candidates should demonstrate a solid understanding of key business conduct regulations specific to the depository industry, namely Handbook, the Code on Unit Trusts and Mutual Funds (“UT Code”), Code on Pooled Retirement Funds (“PRF Code”), Code on Real Estate Investment Trusts (“Code on REITs”) and OFC Code, and be able to effectively apply that knowledge during the examination and in real-world contexts.

The candidates are expected to:

- (a) identify and describe the SFC’s requirements for the Depositories as specified in the UT Code, PRF Code, Code on REITs, the Handbook and OFC Code;
- (b) describe and apply the authorisation procedures and requirements as well as the ongoing investment requirements under the UT Code, PRF Code, OFC Code and Code on REITs to the Depositories;
- (c) identify the scope and purpose of the OFC Code as well as the rights it provides to, and the obligations it imposes on, different persons;
- (d) describe and apply the requirements of the Securities and Futures (OTC Derivative Transactions - Reporting and Record Keeping Obligations) Rules and the related exemptions to Depositories.

### ***Topic 4: Misconduct***

The candidates should demonstrate a thorough understanding of market misconduct provisions in the SFO, be able to identify real-life instances of

market misconduct, describe the potential consequences, and recognise the reasons behind the enforcement actions taken by the SFC.

The candidates are expected to:

- (a) explain the differences between Market Misconduct Tribunal (“MMT”) proceedings and criminal prosecutions under the market misconduct provisions in the SFO and how they are adopted by the SFC in its investigations and enforcement activities;
- (b) describe the role of the MMT and the procedures adopted by the MMT in handling misconduct cases;
- (c) describe and identify market misconduct cases in real-life situations;
- (d) describe the potential consequences of market misconduct under the MMT proceedings and criminal prosecutions;
- (e) describe the private civil actions provided under the SFO that are available for persons affected by market misconduct;
- (f) identify the reasons behind enforcement actions taken by the SFC.