LE Paper 18 (Regulation of Providing Depositary Services)

Syllabus

Topic 1: General regulatory framework

1 Regulators
2 General regulations issued by the Securities and Futures Commission and applicable to RA13 depositaries
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

Topic 3: RA13 related product regulations

1 SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products
2 Collective investment schemes ("CISs"): authorisation procedures and ongoing requirements
3 Authorised CISs: investment requirements
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5 Code on Open-Ended Fund Companies
6 Real estate investment trusts
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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

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 ("MPFA"), the Insurance Authority ("IA") and the Hong Kong Monetary Authority ("HKMA"), 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) describe the various products, services, major participants of depositary industry and key terminologies involved;

(d) explain 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 open-ended fund company ("OFC") and the special provisions affecting them in Part IVA of the SFO;

(f) explain the general licensing and registration requirements and restrictions on conducting Type 13 regulated activities under the SFO;

(g) explain the requirements of Fit and Proper Guidelines, the Guidelines on Competence and the Guidelines on Continuous Professional Training ("Guidelines on CPT");

(h) explain the general principles and other requirements of the Code of Conduct to practical matters related to client assets and conflict of interest;

(i) determine 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) explain general principles guiding the handling of personal data under the Personal Data (Privacy) Ordinance;

(k) explain 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) determine how to effectively adopt risk-based approach ("RBA") 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) explain how senior management should direct and supervise a business, outlining the strengths and deficiencies in corporate governance;

(n) explain the mechanisms by which the SFC exercises its regulatory mandate to supervise the industry;

(o) explain 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 FRR, CSR, CMR, KRR, AAR, Information Rules, and Securities and Futures (Associated Entities-Notice) Rules (where applicable) pertaining to Depositaries.

The candidates are expected to:

(a) explain the requirements of SFO 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 Depositaries;

(d) explain the objectives and guidelines for key areas of internal control identified under ICG;

(e) describe how senior management of the licensed corporations should supervise 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 depositary industry, namely Handbook, the UT Code, PRF Code, 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) describe the SFC's requirements for the Depositaries as specified in the UT Code, PRF Code, Code on REITs, the Handbook and OFC Code;

(b) explain the authorisation procedures and requirements, investment requirements as well as the ongoing requirements under the UT Code, PRF Code, and Code on REITs to the Depositaries;

(c) determine 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) explain the requirements of the OTCD Reporting Rules and the related exemptions to Depositaries.

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 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) explain the role of the MMT and the procedures adopted by the MMT in handling misconduct cases;

(c) explain the various types of market misconducts and apply market misconduct cases in real-life situations;

(d) explain the potential consequences of market misconduct under the MMT proceedings and criminal prosecutions;

(e) explain 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.