
**Note On Ongoing Compliance Matters
For A Licensed Corporation
To Carry Out Certain Regulated Activities**

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NOTE ON ONGOING COMPLIANCE MATTERS FOR A LICENSED CORPORATION TO CARRY OUT CERTAIN REGULATED ACTIVITIES

This note is for general reference only and is not intended to list out exhaustively the obligations of a licensed corporation (the “Company”) under the laws and regulations of Hong Kong. The Company should consult its compliance adviser (if any) in connection with its ongoing compliance matters. This note is produced based on laws and regulations currently in force in Hong Kong (which may be amended, modified, re-enacted, restated or replaced following the date of this note).

Definitions

- *AE*: associated entity
 - *AGM*: annual general meeting
 - *Board*: board of directors of the Company
 - *Company*: licensed corporation
 - *Companies Ordinance*: Companies Ordinance (Cap. 622 of the Laws of Hong Kong)
 - *Compliance Officer*: compliance officer of the Company, appointed by the Board from time to time
 - *CPT*: continuous professional training
 - *Executive Director*: executive director of the Company
 - *Financial Director*: financial director of the Company, appointed by the Board from time to time
 - *FR*: financial resources
 - *FRR*: Securities and Futures (Financial Resources) Rules (Cap. 571N of the Laws of Hong Kong)
 - *HKMA*: Hong Kong Monetary Authority
 - *IRD*: Inland Revenue Department
 - *LR*: licensed representative(s)
 - *RO*: responsible officer as approved by the SFC pursuant to section 126 of the SFO
 - *SFO*: Securities and Futures Ordinance (Cap.571 of the Laws of Hong Kong)
 - *SFC*: Securities and Futures Commission of Hong Kong
 - *SS*: substantial shareholder of the Company
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We set out below the specific on-going compliance obligations of the Company.

Compliance regarding matters the Company is required to notify the SFC

Section 135 of the SFO and parts 1 to 3 of Schedule 3 to the *Securities and Future (Licensing and Registration) (Information) Rules* (“**Information Rules**”) set out the events for which notifications to the SFC is required.

Changes requiring notification to the SFC and which are applicable to the Company are set out in **Part A of Schedule 1** of this note. These include relevant changes of information and particulars of directors, LRs, ROs, SSs and the Company, where applicable.

The following table summarizes the common changes that require notification to the SFC and the relevant notification time limits:

Type of change/ events	Notification time limit
Cessation of business	At least 7 days in advance for intended cessation

Type of change/ events	Notification time limit
	of business
Cessation to act as licensed representative	Within 7 business days
Cessation to act as a responsible officer	Within 7 business days
Change in name	Within 7 business days
Change in business address	At least 7 business days in advance for intended change in business address.
Change in director or his particulars	Within 7 business days
Change in complaints officer or his particulars	Within 7 business days
Change in emergency contact person or his particulars	Within 7 business days
Change in share capital or shareholding structure	Within 7 business days
Change in contact information	Within 7 business days
Significant changes in nature of business carried on and types of services provided	Within 7 business days
Significant changes in business plan	Within 7 business days
Changes in Managers-In-Charge (MICs) of Core Functions (including any new appointment and cessation of appointment)	Within 7 business days
Changes in certain particulars of MICs	Within 7 business days
Change in bank accounts	Within 7 business days
Change in executive officer or his particulars	Within 7 business days
Change in auditor's name	Within 7 business days
Change in associated entity or its particulars	Within 7 business days
Change in insurance policy maintained under the Securities and Futures (Insurance) Rules	Within 7 business days
Change in status of any authorisation to carry on a regulated activity by authority or regulatory organisation in Hong Kong or elsewhere.	Within 7 business days

Certain other changes require the *prior approval* of the SFC. If the Company intends to make any such change, it or the person concerned (e.g. a proposed substantial shareholder of the Company) must lodge the required application form and fee with the SFC. **Part B** of **Schedule 1** of this note sets out matters

relevant to the Company which require the prior approval of the SFC.

Below is a summary of the relevant events that require prior approval from the SFC. Form B is generally required for these applications. However, for applications concerning substantial shareholders, Form D should be submitted. Relevant Supplement Forms may also be required.

Type of change/ events

- Addition of regulated activity
- Reduction of regulated activity
- Modification or waiver of licensing or registration condition
- Modification or waiver of 'fit and proper' requirements
- Change of financial year end
- Adoption of period exceeding 12 months as financial year
- Extension of deadline for submission of audited accounts
- New premises to be used for keeping records or documents
- Becoming a substantial shareholder of licensed corporation

Further to the above, certain other events will also require notification to the SFC. These relate to certain breaches, infringements and non-compliance of laws, rules, regulations and codes and are set out in more detail in **Part C** of **Schedule 1** of this note.

Compliance regarding Continuous Professional Training ("CPT")

Obligations on the Company

The Company is primarily responsible for designing and implementing a continuous program best suited to the training needs of LRs or relevant individuals that the Company engages. Such programs should be able to enhance the LRs' industry knowledge, skills and professionalism and to enable them to perform their duties competently and professionally. The Company is expected to conduct its own due diligence to ensure that CPT compliance by the individuals concerned.

Sufficient records on the programs and the CPT activities undertaken by the LRs should be kept for a minimum of 3 years and be made available for inspection upon request by the SFC or the HKMA. Individuals should also retain their own CPT compliance records for a minimum of 3 years.

The Company and the LRs are required to confirm whether they have complied with the relevant CPT requirements for the previous calendar year.

Obligations on the individual LRs

For LRs to remain fit and proper at all times, one of the assessment criterion is that they remain continuously competent to perform the regulated activities and this is achieved by undertaking training that enhances his technical skills, professional expertise, ethical standards and regulatory knowledge.

Each LR must undertake a minimum of 5 CPT hours per calendar year for **each** regulated activity he

engages in, except for Type 7 regulated activity (providing automated trading services).

LRs are also required to retain appropriate records of all CPT activities completed in a calendar year. Documentary evidence sufficient to support their attendance or completion of CPT activities issued by course providers and examination results should be kept for a minimum of 3 years.

The SFC may impose higher CPT hour requirements under certain circumstances.

A list of approved CPT providers is set out in **Part A** of **Schedule 4** and topics relevant for CPT purposes is set out in **Part B** of **Schedule 4** to this note.

Compliance regarding financial resources

Pursuant to the FRR, the Company is required to maintain prescribed minimum paid-up share capital and minimum liquid capital at all times during which it is licensed. With a condition on its license that no client assets will be held, the Company may not be subject to any minimum paid-up share capital requirement despite the fact it is licensed to carry out regulated activities.

Under the FRR, “liquid capital” is the amount by which a licensed corporation’s *liquid assets* (including cash in hand and monies in an authorised institution beneficially owned by it) exceed its *ranking liabilities*.

For the purpose of the FRR, ranking liabilities include all of the Company’s liabilities including:

- any amount payable by it in relation to any overdraft obtained by it;
- any amount payable by it in relation to any loan obtained by it;
- any accrued interest payable by it to any other person;
- any accrued expenses incurred by it;
- any tax payable by it, less any tax prepaid by it, to the extent that the tax payable and the tax prepaid are of the same description and levied by the same taxation authority;
- any provision made by it for contingent liabilities; and
- any provision made by it for floating losses in respect of open positions held for its own account; and
- any other liabilities provided for in accordance with generally acceptable accounting principles,

but excluding the following:

- any *approved subordinated loan*; or
- any liability that it is not required to be settled within the next 12 months and is secured by a first legal charge on immovable property beneficially owned by it and used in carrying on the regulated activity for which it is licensed, to the extent that the net realizable value of that property equals such liability (“**exempted liability**”) (s53(2) of the FRR).

The Company must understand the above concept very clearly. In particular, the Company should be aware that any shareholders’ loans made to the Company would need to be either (i) capitalised into share capital with an amounts exceeding the nominal amount being the premium on share allotment; (ii) validly released or discharged; or (iii) be approved as an *approved subordinated loan*.

Please refer to **Schedule 5** for further information in connection with approved subordinated loans.

Submission of financial resources returns

As long as the Company is subject to the condition that it does not hold client assets, it will only be required to submit semi-annual financial resources returns to the SFC (c.f. monthly returns). Such

returns shall include:

- the Company's liquid capital computation, as at the end of the 6 month period;
- the Company's required liquid capital computation, as at the end of the 6 month period;
- an analysis of the Company's profit and loss account;
- an analysis of the Company's clientele, as at the end of the 6 month period; and
- an analysis of the assets under the Company's management (in respect of Type 9 regulated activities), as at the end of the 6 month period.

The submission of the semi-annual financial resources returns shall be made by an online communication system, i.e. e-FRR System of the SFC through <https://efrr.sfc.hk>.

Submission of audited accounts

The Company is required to submit its audited accounts and other required documents to the SFC within 4 months after the end of each financial year.

Payment of annual fees

All licensed persons (including the Company and each of its LRs and ROs) should pay annual fees within one month after each anniversary date of their licences.

The annual fee currently payable by licensed corporation and RO licensed for Types 4 & 9 regulated activities is HK\$4,740 per regulated activity. The annual fee for a LR licensed for Types 4 & 9 regulated activities is HK\$1,790 per regulated activity. Failure to make full payment of the annual fee before the due date will attract a surcharge on the outstanding amount and possible suspension and revocation of a licence or registration (sections 138(3) and 195(4)(a) and (6) of the SFO). Details are set out below.

Overdue period	Penalty
Less than 1 month	10% surcharge
Over 1 month but less than 2 months	30% surcharge
Over 2 months but less than 3 months	50% surcharge
Over 3 months but less than 4 months	Suspension of licence (Subject to the SFC giving 10 business days notice)
Over 4 months	Revocation of licence

Submission of annual returns

The Company and its LR are required to submit annual returns to the SFC through the SFC online portal within one month after each anniversary date of their licenses (section 138(4) of the SFO).

Failure to submit an annual return before the due date could result in suspension and revocation of the licence concerned as described in the table below.

Overdue period	Penalty
Over 3 months but less than 4 months	Suspension of licence subject to the SFC giving 10 business days' notice
Over 4 months	Revocation of licence

Compliance with operations/ compliance manual

The Company and each of its LRs and ROs should comply strictly with requirements of the Company's operations / compliance manual which was submitted to the SFC as part of its licensing application.

Compliance with the Companies Ordinance

As with any other Hong Kong private companies, the Company must comply with requirements of the Companies Ordinance. The following are some of the key compliance requirements (*NB: this is non-exhaustive*):

- an annual return must be filed with the Companies Registry each year within 42 days after its most recent anniversary of its date of incorporation;
- the Company must hold an AGM every year; and
- the Company's Business Registration Certificate must be renewed annually.

Compliance with tax obligations

The Company must comply with its tax obligations as follows:

Company tax obligations

The Company's tax return is generally prepared by the Compliance Officer and reviewed by the Executive Director.

Employee tax obligations

The Company must notify the Inland Revenue Department ("**IRD**") of staff members within 3 months from date of commencement of employment. If such staff members receive remuneration from the Company, the Company must notify the IRD 1 month after the cessation of their employment.

The Company must withhold the final month's salary payment for those staff members who are not Hong Kong residents or those persons who are known to be leaving Hong Kong, if such staff members have received their remuneration from the Company. The Company is obliged to withhold such salaries until the relevant employee has paid all his/her taxes and has been issued with a "Letter of Release" from the IRD.

The Compliance Officer is responsible for compliance with the above obligations.

General compliance issues

As a licensed corporation, a number of general obligations are applicable to the Company and its staff. These requirements are set out in the Company's operations / compliance manual and is reproduced in **Schedule 6** of these notes.

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This note is provided for information purposes only and does not constitute legal advice. Specific advice should be sought in relation to any particular situation. This note has been prepared based on the laws and regulations in force at the date of this note which may be subsequently amended, modified, re-enacted, restated or replaced.

SCHEDULE 1

Part A – Changes required to be notified to the SFC

- where a **director** of the Company becomes or ceases to be a director. Both the person and the Company must notify the SFC within 7 business days after the event takes place (s135(6) of the SFO);
- a **substantial shareholder** of the Company is required to notify changes specified in Part 4 of Schedule 3 to the Information Rules. Part 4 of Schedule 3 of the Information Rules requires notification of:
 - changes in the basic information (see definition in **Schedule 2** of these notes) in respect of the SS.
 - changes in the relevant information (see definition in **Schedule 2** of these notes) in respect of the SS.
 - significant changes in the capital and shareholding structure of the SS.
 - in the case of an individual, changes in whether the SS has ever been a patient as defined in section 2 of the Mental Health Ordinance (Cap 136).
- the **Company** is required to give a notice in writing within 7 business day if a change occurs in relation to any of the information specified in Part 1 of Schedule 3 of the Information Rules. Part 1 of Schedule 3 of the Information Rules requires notification of:
 - changes in the basic information (see definition in **Schedule 2** of these notes) in respect of:
 - itself as a licensed corporation;
 - each of its controlling person;
 - each person who is its RO; and
 - each subsidiary of the licensed corporation that carries on a business in any regulated activity.
 - changes in the persons who are **controlling persons, Responsible Officers** or **subsidiaries** of the Company that carry on a business in any regulated activity.
- changes in the name, correspondence address, contact telephone and facsimile numbers and electronic mail address of:
 - (i) each **contact person** appointed by the Company as the person whom the SFC may contact in the event of market emergency or other urgent need; and
 - (ii) each person who is, or is proposed to be, a **complaints officer** of the Company.
- changes in the **status of any authorization** (however described) **to carry on a regulated activity** by an authority or regulatory organization in Hong Kong or elsewhere in respect of each of the following persons:
 - itself as a licensed corporation;
 - each of its controlling person;
 - each person who is its RO; and
 - each subsidiary of the licensed corporation that carries on a business in any

regulated activity.

- changes in the **status of the membership** (however described) of a **stock exchange or futures exchange** in Hong Kong or elsewhere in respect of each of the following persons:
 - itself as a licensed corporation;
 - each of its controlling person;
 - each person who is its RO; and
 - each subsidiary of the licensed corporation that carries on a business in any regulated activity.
- changes in the relevant information (see definition in **Schedule 2** of these notes) in respect of each of the following persons:
 - itself as a licensed corporation;
 - each of its controlling person;
 - each person who is its RO; and
 - each subsidiary of the licensed corporation that carries on a business in any regulated activity.
- significant changes in the **nature of the business** carried on or to be carried on and types of services provided or to be provided by the Company.
- significant changes in the **business plan** of the Company covering internal controls, organizational structure, contingency plans and related matters.
- changes in the **capital and shareholding structure** of the Company and the basic information (see definition in **Schedule 2** of these notes) in respect of any person in accordance with whose directions or instructions the licensed corporation is, or its directors are, accustomed or obliged to act.
- changes in the information in respect of any **assets** of the Company that are **subject to any charge** (including pledge, lien or encumbrance).
- changes in the particulars in respect of **bank accounts** of the licensed corporation relating to the conduct of regulated activities stating:
 - whether an account has been opened or closed or has become dormant or ordered to be frozen by a competent authority;
 - the name of the bank with which the account has been opened or closed or has become dormant or ordered to be frozen by a competent authority;
 - the number of the account;
 - the date of opening or closing any such account; and
 - whether the account is or was a trust account.
- changes in the name of the **auditor** of the Company and the reasons for the change in the auditor.
- changes in the address of each of the **premises** where the business of the Company is, or is to be, conducted.
- Changes in any insurance maintained or previously maintained by the licensed corporation in accordance with rules made under section 116(5) of the SFC.

- a LR is required to give a notice in writing within 7 business days if a change occurs in relation to any of the information specified in Part 3 of Schedule 3 of the Information Rules. Part 3 of Schedule 3 of the Information Rules requires notification of:
 - changes in the basic information (see definition in **Schedule 2** of these notes) in respect of the licensed representative.
 - changes in the status of any authorization (however described) to carry on a regulated activity by an authority or regulatory organization in Hong Kong or elsewhere in respect of the Licensed Representative.
 - changes in the status of the LR's membership (however described) of a stock exchange or futures exchange in Hong Kong or elsewhere.
 - significant changes in the types of services provided or to be provided by the LR on behalf of the licensed corporation to which the LR is accredited or seeks to be accredited.
 - changes in the relevant information (see definition in **Schedule 2** of these notes) in respect of the LR.
 - changes in whether the licensed representative has ever been a patient as defined in section 2 of the Mental Health Ordinance (Cap 136).
 - changes in the status of any directorships, partnerships or proprietorships of the LR.

Part B – Matters requiring prior approval of the SFC

- the Company or any of its LR to vary the regulated activity specified in its / his licence, add a regulated activity or apply for approval of a reduction of a regulated activity.
- modification of the “fit and proper” requirements.
- in relation to the Company acting as a sponsor.
- in relation to licensing and registration requirements, the Company or any of its LR to modify or ask for waiver of any conditions imposed or certain other requirements.
- the Company to apply for an alteration of its financial year end previously notified to the SFC and/or adoption of a period exceeding 12 months as its financial year.
- the Company to apply for an extension of time to lodge its audited accounts (the SFC may grant an extension if it is satisfied that there are special reasons for doing so. If the Company anticipates that an extension of the submission deadline may be required, it should submit its application to extend the submission period well before the deadline).
- the Company to apply for the SFC's approval for each new premise to be used for keeping records or documents.
- a person (including a corporation) is required to apply for the SFC's approval before he can become or continue to be a SS of the Company.
- a person, being aware that he became SS of the Company without the SFC's prior approval should as soon as reasonably practicable and in any event within 3 business days after he became so aware, apply to the SFC for approval to continue to be a SS of the Company. A

group chart depicting the related change in shareholding structure including the respective number of shares and percentage of shareholdings must be submitted together with the application.

Please refer to **Schedule 3** for definition of “**substantial shareholder**” (SS).

Part C – Certain events requiring notification to the SFC

The Company must report to the SFC immediately any material breach, infringement of or non-compliance with any law, rules, regulations, and codes administered or issued by the SFC, the rules of any exchange or clearing house of which it is a member or participant, and the requirements of any regulatory authority which apply to the licensed or registered person, or where it suspects any such breach, infringement or non-compliance by itself or by any member of its staff.

The Company must notify and give particulars of any breach, infringement or non-compliance (or any suspected breach, infringement or non-compliance) and relevant information and documents to the SFC upon the happening of the following:

- (1) the passing of any resolutions, the initiation of any proceedings, or the making of any order which may result in the appointment of a receiver, a provisional liquidator, a liquidator or administrator or the winding-up, re-organisation, reconstruction, amalgamation, dissolution or bankruptcy of the Company or any of its substantial shareholders or the making of any receiving order or arrangement or composition with creditors;
- (2) the bankruptcy of any of its directors;
- (3) the exercise of any disciplinary measure against the Company by any regulatory or other professional or trade body or refusal, suspension or revocation of any regulatory licence, consent or approval required in connection with its business; and
- (4) any material breach, infringement or non-compliance of the market misconduct provisions set out in Part XIII of the SFO or Part XIV of the SFO that it reasonably suspects may have been committed by its client, giving particulars of the suspected breach, infringement or non-compliance and relevant information and documents;
- (5) any determination or settlement of a complaint in connect with the financial dispute resolution scheme, including the details of the determination or settlement, if so required by the SFC; and
- (6) any material failure, error or defect in the operation or functioning of its trading, accounting, clearing or settlement systems or equipment.

SCHEDULE 2

DEFINITIONS OF “BASIC INFORMATION” AND “RELEVANT INFORMATION”

For the purpose of the Information Rules, the definitions of “**basic information**” and “**relevant information**” are as follows:

Basic Information:

- (1) Basic information, in relation to an **individual**, means, in so far as applicable, the following particulars of the individual:
 - the title and the full personal name and surname in Chinese and English;
 - the date and place of birth;
 - gender;
 - the Chinese commercial code and the number on his identity card issued under the Registration of Persons Ordinance (Cap 177), and, if he is not the holder of a permanent identity card, the number, the name of the issuing agency and the date of expiry, of his passport, travel or other document issued by a competent government agency providing proof of identity;
 - nationality;
 - the business, residential and correspondence addresses; and
 - the contact telephone and facsimile numbers and electronic mail address.
- (2) Basic information, in relation to a **corporation**, means, in so far as applicable, the following particulars of the corporation:
 - the corporate name and business name in Chinese and English;
 - former names and periods during which those names were used;
 - the date and place of incorporation;
 - the number of its valid business registration certificate;
 - in the case of a corporation incorporated outside Hong Kong, the date of the certificate of registration issued in respect of the corporation under Part XI of the relevant Ordinance or section 777 of Part 16 of the Companies Ordinance;
 - the address of its registered office;
 - the addresses of its places of business;
 - the correspondence address; and
 - the telephone and facsimile numbers, electronic mail address and web site address.

Relevant information

- (1) Relevant information, in relation to an **individual**, means information on whether or not the individual is or has been, in Hong Kong or elsewhere:-
 - convicted of or charged with any criminal offence (other than a minor offence) whether or not evidence of such conviction is admissible in proceedings in Hong Kong or elsewhere;
 - subject to any disciplinary action or investigation by a regulatory body or criminal investigatory body (as the case may be);
 - subject to any order of the court or other competent authority for fraud, dishonesty or misfeasance;
 - a substantial shareholder or director of a corporation or business that is or has been subject to any disciplinary action or investigation by a regulatory body or criminal investigatory body (as the case may be), or involved in the management of such corporation or business;

- a substantial shareholder or director of a corporation or business that is or has been subject to any order of the court or other competent authority for fraud, dishonesty or misfeasance, or involved in the management of such corporation or business;
- engaged in any judicial or other proceedings;
- a party to a scheme of arrangement, or any form of compromise, with his creditors;
- in default of compliance with any judgment or court order;
- a substantial shareholder or director of a corporation or business that was wound up otherwise than by way of a members' voluntary winding up, or involved in the management of such corporation or business;
- a partner of a firm which was dissolved other than with the consent of all the partners;
- bankrupt or aware of the existence of any matters that might render him insolvent or lead to the appointment of a receiver of his property under the Bankruptcy Ordinance (Cap. 6);
- refused or restricted from the right to carry on any trade, business or profession for which a specific licence, registration or other authorization is required by law;
- a substantial shareholder or director of a corporation that has been refused or restricted from the right to carry on any trade, business or profession for which a specific licence, registration or other authorization is required by law, or involved in the management of such corporation; and
- disqualified from holding the office of director.

(2) Relevant information, in relation to a **corporation**, means information on whether or not the person is or has been, in Hong Kong or elsewhere-

- convicted of or charged with any criminal offence (other than a minor offence) whether or not evidence of such conviction is admissible in proceedings in Hong Kong or elsewhere;
- subject to any disciplinary action or investigation by a regulatory body or criminal investigatory body (as the case may be);
- subject to any order of the court or other competent authority for fraud, dishonesty or misfeasance;
- a substantial shareholder or director of a corporation or business that is or has been subject to any disciplinary action or investigation by a regulatory body or criminal investigatory body (as the case may be), or involved in the management of such corporation or business;
- a substantial shareholder or director of a corporation or business that is or has been subject to any order of the court or other competent authority for fraud, dishonesty or misfeasance, or involved in the management of such corporation or business;
- engaged in any judicial or other proceedings;
- a party to a scheme of arrangement, or any form of compromise, with its creditors;
- in default of compliance with any judgment or court order;
- a substantial shareholder or director of a corporation or business that was wound up otherwise than by way of a members' voluntary winding up, or involved in the management of such corporation or business;
- a partner of a firm which was dissolved other than with the consent of all the partners;
- in the case of a corporation other than a registered institution which is insolvent or aware of the existence of any matters that might render it insolvent or lead to the appointment of a liquidator;
- refused or restricted from the right to carry on any trade, business or profession for which a specific licence, registration or other authorization is required by law; and
- a substantial shareholder or director of a corporation that has been refused or restricted from the right to carry on any trade, business or profession for which a specific licence, registration or other authorization is required by law, or involved in the management of such corporation.

SCHEDULE 3

DEFINITION OF SUBSTANTIAL SHAREHOLDER

A person shall, in relation to a corporation, be regarded as a SS of the corporation, if he, either alone or with any of his associate:

- has an interest in shares in the corporation:
 - the aggregate number of which shares is equal to more than 10% of the total number of issued shares of the corporation; or
 - which entitles the person, either alone or with any of his associates and either directly or indirectly, to exercise or control the exercise of more than 10% of the voting power at general meetings of the corporation; or
- holds shares in any other corporation which entitles him, either alone or with any of his associates and either directly or indirectly, to exercise or control the exercise of 35% or more of the voting power at the general meetings of the other corporation, or of a further corporation, which is itself entitled, either alone or with any of its associates and either directly or indirectly, to exercise or control the exercise of more than 10% of the voting power at the general meetings of the corporation.

A person will be regarded as being entitled to exercise or control the exercise of 35% or more of the voting power at general meetings of a corporation indirectly if he, either alone or with any of his associates, has an interest in shares in a further corporation which entitles him, either alone or with any of his associates, to exercise or control the exercise of 35% or more of the voting power at general meetings of the further corporation which is itself entitled, either alone or with any of its associates, to exercise or control the exercise of 35% or more of the voting power at general meetings of the first-mentioned corporation.

Please refer to Part 1 of Schedule 1 to the SFO for the definition of “associate”, “hold” and other related terms.

SCHEDULE 4

CONTINUING PROFESSIONAL TRAINING

Part A - List of Approved CPT Providers

Tertiary institutions and professional bodies that have been approved by the AAAC as recognized institutions for providing CPT are as follows:

- (1) Hong Kong Institute of Bankers
- (2) The Financial Services Development Centre of the Vocational Training Council
- (3) Hong Kong Stockbrokers Association Limited
- (4) The Hong Kong Society of Financial Analysts Limited
- (5) The Institute of Securities Dealers Limited
- (6) The School of Professional and Continuing Education (“SPACE”) of the University of Hong Kong
- (7) Hong Kong Exchanges and Clearing Limited
- (8) The Hong Kong Institute of Company Secretaries
- (9) Hong Kong Investment Funds Association
- (10) Department of Accountancy of the Hong Kong Polytechnic University
- (11) School of Professional Education and Executive Development (“SPEED”) of the Hong Kong Polytechnic University
- (12) School of Continuing Education of the Hong Kong Baptist University

Institutions that provide recognized industry qualifications for competence purpose can also provide CPT courses. These are:

- (1) Hong Kong Securities Institute (Hong Kong)
- (2) The National Association of Securities Dealers, Inc. (US)
- (3) The Association for Investment Management and Research (US)
- (4) The Securities Institute of Australia (Australia)
- (5) The Securities Institute (UK)
- (6) Canadian Securities Institute (Canada)
- (7) Japan Securities Dealers Association (Japan)

Note: Only training programs relevant to the regulated activities for which an individual engaged in would serve the CPT purpose. Individuals are advised to select topics that are related to their regulated activities and will enhance their professionalism to satisfy the CPT requirements.

Part A – Relevant topics for CPT purposes

Individuals are required to remain fit and proper to perform their functions at a professional level. Relevant topics for individuals at the representative or relevant individual level include, amongst others:

- (a) applicable compliance, legislative and regulatory standards;
- (b) business conduct and ethical standards;
- (c) new financial products in the industry and the associated risk management systems;
- (d) business communication skills and trade practices;
- (e) general law principles;
- (f) computer knowledge;
- (g) basic accounting theories; and
- (h) fundamental economic analysis.

Relevant topics for responsible officers or executive officers of registered institutions who play a crucial role in ensuring effective corporate governance and control may, in addition to the above topics, include the following:

- (a) business management;
- (b) risk management and control strategy;
- (c) general management and supervisory skills;
- (d) macro and micro economic analysis; and
- (e) financial reporting and quantitative analysis.

The above topics are examples only and they are by no means exhaustive.

Language courses cannot be counted as CPT whereas management training can be counted towards CPT if the training assists in enhancing the person's ability to carry out the regulated activities.

Seminars given by the SFC pertaining to regulatory updates and other relevant topics can also be counted.

Repeatedly undertaking the same CPT activity of the same content will not satisfy the requirements.

SCHEDULE 5

APPROVED SUBORDINATED LOANS

Ranking liabilities of a licensed corporation does not include any liabilities under an “approved subordinated loan”. This means that the Company could raise capital to meet its liquid capital requirements through approved subordinated loans notwithstanding any amount of liabilities outstanding under such loans.

What is an approved subordinated loan?

An “approved subordinated loan” is a subordinated loan obtained by a licensed corporation and approved by the SFC. In order for any subordinated loan arrangement obtained by a licensed corporation to be used to improve its ability to meet applicable minimum liquid capital requirements under the FRR, the loan must have been fully drawn under a subordinated loan agreement which provides for subordination of the rights of the lender to that of the other creditors in the event that the licensed corporation’s insolvency or inability to comply with the FRR.

How are subordinated loans approved by the SFC?

An application in writing must be made by the licensed corporation to the SFC to obtain its approval. This must be accompanied by a payment of HK\$6,000 made by a crossed cheque payable to the “Securities and Futures Commission” and sent to the Intermediaries Supervision Department of the SFC at “8th Floor, Chater House, 8 Connaught Road, Central, Hong Kong.

What criterias will the SFC look at in determining whether to approve a subordinated loan?

The SFC will examine whether the subordinated loan proposed to be approved will satisfy the following requirements (non-exhaustive and for reference only):

- Financial position of the lender: the lender must be financially sound. It should be either connected to the licensed corporation (e.g. parent or holding company) or an authorized financial institution/ approved bank incorporated outside Hong Kong;
- size of the loan: the aggregate amount of all outstanding approved subordinated loans and outstanding approved redeemable shares (if any) should normally not exceed the shareholders’ funds (i.e. share capital plus reserves less deficits) of the licensed corporation;
- duration of the loan: the term of any approved subordinated loan or facility should normally be not less than two years; and
- loan agreement: a subordinated loan agreement must be substantially in the form of the model subordinated loan agreements provided by the SFC. We attach a model long term subordinated loan agreement for your reference:

The loan clause, the interest clause and the attestation clause are normally the only variable clauses allowed in order to reflect the characteristics of the particular loan. Any interest payable should not be at a rate above the prevailing commercial rate in the market having regard to the financial position of the borrower and the duration of the loan, although non-interest bearing loans may be acceptable.

Licensed corporations are encouraged to contact the Intermediaries Supervision Department of the SFC in advance of a subordinated loan application to discuss certain matters such as the appropriate type of subordinated loan arrangement and the acceptable size of the loan.

We note that the SFC may impose such conditions on the subordinated loan as it may deem reasonable in the circumstances.

What is the processing time required for the SFC to approve a subordinated loan?

According to a SFC circular dated 29 November 2004, the SFC would take less than four business days to process each application for approval of subordinated loans, provided that all necessary documentation and details that fulfill regulatory requirements are submitted.

What documentations are required to be submitted?

If, after having examined the draft subordinated loan agreement and other submissions, the SFC is prepared to approve the application, the SFC will issue an in-principle approval letter to the licensed corporation applicant setting out the documentation and other requirements, including but not be limited to the following:

- executed but undated subordinated loan agreement in the form as stipulated in the in-principle approval letter;
- a certified true copy of the minutes of the board meeting of the lender and the licensed corporation respectively at which the execution of the subordinated loan agreement was approved;
- documentation regarding the funding of the subordinated loan by the lender to the licensed corporation (e.g. bank confirmation of receipt of funds, or board resolution in case of conversion of existing inter-company/ shareholders' loan)
- a letter from the legal adviser of the lender/licensed corporation (if incorporated overseas) confirming certain matters, including:
 - that the lender/licensed corporation has the corporate capacity, power and authority to enter into the subordinated loan agreement;
 - the entering into the subordinated loan agreement will not breach any local laws or regulations nor will it require any approvals from local authorities; and
 - the subordinated loan agreement has been properly executed; i.e. approval has been given by the proper person(s) whose approval is required for the subordinated loan, the agreement has been executed by the proper person(s) who is duly authorised to execute the subordinated loan agreement on behalf of the company, and the mode of execution complies with relevant law and the constitutive documents of the overseas corporations.
- confirmation of acceptance of specified conditions (if any) applicable to the approval

An application may be deemed to be withdrawn if the licensed corporation does not provide the requested documents above within a specified time period.

What if the lender has already made advances to the licensed corporation?

If the proposed subordinated loan is to be discharged by any subsisting advance(s) already made by the lender to the licensed corporation, the loan must be included as a ranking liability of the borrower's liquid capital computation and must not be treated as an approved subordinated loan unless and until final approval is given by the SFC.

SCHEDULE 6

GENERAL OBLIGATIONS

General Obligations of the Company and its Employees

The Company and its staff members must comply with the following obligations:

- it must do all things necessary to ensure that its financial services business is conducted efficiently, honestly and fairly;
- it must comply with SFC licence conditions;
- it must take reasonable steps to ensure that its representatives comply with applicable financial services laws;
- it must have available adequate resources;
- it must maintain the competence to provide the financial services;
- it must adequately train its representatives and ensure that they are competent to provide the relevant financial services;
- it must have an adequate dispute resolution procedure; and
- it must have adequate risk management systems.

The Company and all its Directors, ROs, LRs, employees, and officers must observe the following when performing their duties:

- act with due care, skill and diligence in providing any service;
- act honestly and fairly;
- not put the Company or themselves in a position where the Company's or their interests conflict with those of a client;
- ensure that they, and the Company, do not derive profit or benefit from acting for a client other than from legitimate charges or remuneration and the like which are fair and reasonable;
- always act in good faith, reasonably in accordance with best market practice, and in such a way as to observe high standards of integrity and fair dealing;
- not do any act or engage in any course of conduct which creates or may create a false or misleading appearance as to the market in any financial products or as to the price or value of any financial products;
- ensure that they:
 - do not make a statement, promise or forecast or disseminate information which they know or suspect to be misleading, false or deceptive or which they ought reasonably to have known to be misleading, false or deceptive; and
 - make adequate disclosures and not conceal any material facts or information in all dealing

with its clients.

- before making any statement, promise or forecast, the accuracy of all matters contained in that statement, promise or forecast must be checked against appropriate reliable source material and be approved in accordance with the Company's procedures laid down for the issue of advertisements and recommendations (please refer to section on "Advertising & Marketing");
- take reasonable steps to ensure that all agreements, written communications, notifications and information provided to clients are presented fairly and clearly and are pre-approved by the Compliance Officer and the Executive Director;
- refrain from participating in unethical transactions;
- to remain competent;
- to employ effectively the resources and procedures which are needed for the proper performance of the Company's business activities;
- be fit and proper and qualified to act in the capacity so employed or appointed (include having relevant professional training or experience);
- avoid conflicts of interests, and when they cannot be avoided, ensure that its clients are fairly treated;
- understand and comply with all regulatory requirements applicable to business activities conducted by the Company and by them; and
- avoid any transaction or practice that involves a risk of bringing the Company into disrepute.
- Further, senior management should bear primary responsibilities for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures by the Company.

Competence

The competence of the Company's staff are explicitly linked to the overall fitness and proneness of the Company to carry out its business and its responsibility in controlling internal affairs effectively.

To ensure that Company staff are and remain competent for the work that they do, they are appropriately supervised, regularly reviewed with regard to the level of competence that is appropriate to the nature of his employed capacity.

Remaining fit and proper

The Company and its LRs must remain fit and proper at all times. They have to comply with all applicable provisions of the SFO and its subsidiary legislation as well as the codes and guidelines issued by the SFC.

Compliance with Relevant Laws and Regulations

Regulatory Authorities:

Any regulatory issue relating to the Company or the conduct of its business is the responsibility of compliance.

If a regulator approaches any Director, officer or staff member regarding a specific transaction or the conduct of the Company's business, the matter must be referred to the Compliance Officer and Executive Director immediately.

No Director, officer or staff member is to communicate with any regulatory authority without the express permission of the Compliance Officer and Executive Director.

Compliance with the SFO and its Subsidiary Legislation:

The activities of the Company and its officers are governed by the SFO and by the rules policies, codes and guidelines of the SFC.

All of the Company's LRs must comply with the relevant rules, regulations, codes, guidelines and policies issued by the SFC and all LRs and ROs must be familiar with them. The most relevant to most regulated activities are:

- (1) Code of Conduct for Persons Licensed by or Registered with the SFC;
- (2) Prevention of Money Laundering and Terrorist Financing Guidance Note;
- (3) Management, Supervision and Internal Control Guidelines for Persons Licensed by or Registered with the SFC;
- (4) Fit and Proper Guidelines; and
- (5) Guidelines on Competence.

Compliance with Licensing Requirements of Officers and Staff of the Company

For the most part, it will be the responsibility of the Compliance Officer to ensure that all employees are aware of any limitations affecting their specific roles but all employees should nevertheless be alert to the need, on occasion, to question whether they are permitted to perform a particular function. If you are unsure whether you can perform any particular activity, you *must* first consult with the Compliance Officer.

Company staff, and particular, management, should note that there is a formal process for seeking approval to undertake a new regulated activity which requires a formal submission to the SFC which involves a detailed explanation of the new activity and a clear demonstration of the Company's preparedness to undertake such an activity (i.e. in respect of new compliance and operating procedures, adequately trained staff etc.)

Licensing requirements for other staff:

Any officer who carries on a regulated activity on behalf of the Company must be approved by the SFC as a licensed representative.

The Directors and the Compliance Officer must ensure that all officers, whose duties are required to be licensed by the SFC under the relevant law, rules and regulations in Hong Kong, are appropriately licensed by the SFC. No regulated activities may be performed by an officer prior to him being granted a licence by the SFC to carry on the relevant regulated activity.

Revocation of licenses

Under the current legislation, there are circumstances under which licences for ROs and/or licenses

persons may be revoked. These events are:

- Events of automatic revocation
 - death of natural person
- Events of revocation by the SFC include:
 - becoming mentally disordered;
 - being involved in an event of insolvency;
 - being convicted of an offence;
 - fails to pay annual fee or contract levy;
 - has been guilty of any misconduct;
 - is not fit and proper to be registered;
 - any failure to comply with any legal and statutory requirement;
 - any failure to observe the terms and conditions of the licence; and
 - any act or omission relating to the conduct of business which is prejudicial to the interests of members of the investing public.

Record Keeping and retention of records

Record keeping

As a licensed corporation, the Company shall comply with the record keeping requirements contained in the relevant legislation, rules or regulations of relevant authorities.

One of the purpose of keeping such records is to ensure a satisfactory audit trail for suspected drug related or other laundered money or terrorist property and be able to establish a financial profile of the suspected account. For example, to satisfy these requirements, the following information may be sought:

- the beneficial owners of the account;
- the volume of funds flowing through the account;
- the origin of the funds;
- the form in which the forms were offered or withdrawn (i.e. cash, cheques, etc.);
- the identity of the person undertaking the transaction;
- the destination of the funds; and
- the form of instruction and authority.

Retention of records

Records of evidence obtained on clients' identity, and evidence of transactions effected by clients must be maintained to assist in any investigation which may arise in the future. The following document retention terms are suggested by the authorities:

- all necessary records on transactions, both domestic and international, should be maintained for

at least seven years. Such records must be sufficient to permit reconstruction of individual transactions (including the amounts and types of currency involved, if any) so as to provide, if necessary, evidence for prosecution of criminal behaviour;

- records on client identification (e.g. copies or records of official identification, documents like passports, identity cards, driving licenses or similar documents), account files, and business correspondence should be kept for at least five years after the end of the business relationship.

In situations where the records related to on-going investigations or transactions which have been the subject of disclosure, they should be retained until it is confirmed that the case has been closed.