

**Subcommittee on Draft Subsidiary Legislation to be made under the
Securities and Futures Ordinance**

Securities and Futures (Licensing and Registration) (Information) Rules

Members considered the revised draft of the Securities and Futures (Licensing and Registration) (Information) Rules at the Subcommittee meeting on 24 October 2002. In the light of the comments of some Members and the LegCo Legal Adviser, we submit at the **Annex** the further revised draft of the Rules, with the proposed amendments marked up for easy reference. The reasons for the amendments are explained in the footnotes.

Securities and Futures Commission
Financial Services and the Treasury Bureau
22 November 2002

**SECURITIES AND FUTURES (LICENSING AND
REGISTRATION) (INFORMATION) RULES**

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SECURITIES AND FUTURES (LICENSING AND REGISTRATION) (INFORMATION) RULES

(Made by the Securities and Futures Commission under sections 128 and 397(1) of the Securities and Futures Ordinance (Cap. 571))

1. Commencement

These Rules shall come into operation on the day appointed for the commencement of the Securities and Futures Ordinance (Cap. 571) .

2. Interpretation

(1) In these Rules, unless the context otherwise requires –

“applicant” (申請人) means the person making an application under the Ordinance to the Commission;

“basic information” (基本資料) means the information referred to in Part 1 of Schedule 1¹—

~~(a) in relation to an individual, means, in so far as applicable, the following particulars of the individual—~~

~~—— (i) — the title and the full personal name and surname in Chinese and English;~~

~~—— (ii) — the date and place of birth;~~

~~—— (iii) — gender;~~

~~—— (iv) — the Chinese commercial code and the identification 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;~~

¹ The definitions of “basic information” and “relevant information” are essentially operative provisions best placed near the schedules to which they apply.

- ~~travel or other document issued by a competent government agency providing proof of identity;~~
- ~~— (v) — nationality;~~
- ~~— (vi) — the business, residential and correspondence addresses; and~~
- ~~— (vii) — the contact telephone and facsimile numbers and electronic mail address;~~
- ~~(b) in relation to a corporation, means, in so far as applicable, the following particulars of the corporation —~~
- ~~— (i) — the corporate name and business name in Chinese and English;~~
- ~~— (ii) — former names and periods during which those names were used;~~
- ~~— (iii) — the date and place of incorporation;~~
- ~~— (iv) — the number of its valid business registration certificate;~~
- ~~— (v) — in the case of corporations incorporated outside Hong Kong, the date of compliance with the provisions of Part XI of the Companies Ordinance (Cap. 32) relating to the registration of documents;~~
- ~~— (vi) — the address of its registered office;~~
- ~~— (vii) — the addresses of its places of business;~~
- ~~— (viii) — the correspondence address; and~~
- ~~— (ix) — the telephone and facsimile numbers, electronic mail address and web site address;~~

“CE number” (中央編號) means the central entity identification number assigned by the Commission to an intermediary, a licensed representative or an associated entity of an intermediary;

“complaints officer” (投訴主任), in relation to an intermediary, means a person appointed by the intermediary to handle complaints made to the intermediary;

“controlling person” (控制人), in relation to ~~an intermediary, or a corporation applying to become an intermediary,~~ means each of the directors and substantial shareholders of the ~~intermediary, or the persons who would be the directors and substantial shareholders of the corporation if its application is successful (as the case may be),~~²

“CPT” (持續專業訓練) means—

~~(a) in relation to an intermediary, the continuous training that it is obliged to provide to its representatives under codes of conduct made under section 169(2)(b)(i) of the Ordinance;~~
or

~~(b) in relation to a representative of an intermediary, the continuous training that he is obliged to undergo under codes of conduct made under section 169(2)(b)(ii) of the Ordinance;~~³

“criminal investigatory body” (刑事調查機構) means the Hong Kong Police Force and the Independent Commission Against Corruption established under section 3 of the Independent Commission Against Corruption Ordinance (Cap. 204) , and public bodies in Hong Kong or elsewhere carrying out criminal investigations;

“minor offence” (輕微罪行) means an offence punishable by a fixed penalty under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237), the

² The term “controlling person” is also used in relation to a substantial shareholder of an intermediary, hence the need to generalise the definition.

³ To lessen the burden on the industry, the SFC decides not to require licensees to report on their compliance with the continuous professional training (CPT) requirements (licensees are still required to observe the CPT requirements).

Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) or the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570), or offence of similar nature committed in a place outside Hong Kong;

“permanent identity card (永久性居民身分證) has the meaning assigned to it by section 1A of the Registration of Persons Ordinance (Cap. 177);

“principal” (主事人) has the meaning assigned to it by section 113 of the Ordinance;

“relevant information” () means the information referred to in Part 2 of Schedule 1¹; ~~in respect of any person means information on whether or not the person is or has been, in Hong Kong or elsewhere—~~

~~(a) 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;~~

~~(b) subject to any disciplinary action or investigation by a regulatory body or criminal investigatory body (as the case may be);~~

~~(c) subject to any order of the court or other competent authority for fraud, dishonesty or misfeasance;~~

~~(d) 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;~~

~~(e) 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;~~
- ~~(f) engaged in any judicial or other proceedings;~~
- ~~(g) a party to a scheme of arrangement, or any form of compromise, with his creditors;~~
- ~~(h) in default of compliance with any judgement or court order;~~
- ~~(i) a substantial shareholder or director of a corporation which was wound up otherwise than by way of a members' voluntary winding up, or involved in the management of such corporation or business;~~
- ~~(j) a partner of a firm which was dissolved other than with the consent of all the partners;~~
- ~~(k) (in the case of a corporation other than a registered institution) insolvent or aware of the existence of any matters that might render it insolvent or lead to the appointment of a liquidator;~~
- ~~(l) (in the case of an individual) 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);~~
- ~~(m) 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;~~
- ~~(n) 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~~

~~(o)(in the case of an individual) been disqualified from holding the office of director;~~

“regulatory body” () includes the Commission, the Monetary Authority, a recognized exchange company, any professional body or association, an examination authority, an inspector appointed under any enactment, and other equivalent bodies or persons, in Hong Kong or elsewhere;

“reporting period” (申報表所涵蓋的期間) means –

- (a) the period of one year to each anniversary of the date on which a person is licensed by the Commission as a licensed corporation or licensed representative; or
- (b) such other period as may be approved by the Commission by notice in writing,

⁴“valid business registration ~~C~~ertificate” () has the meaning assigned to it by section of 2(1) of the Business ~~r~~egistration Ordinance (Cap. 310).

(2) Where a person is a registered institution, a requirement in these Rules for a person to provide information or particulars (however described) to the Commission shall be construed as a requirement to provide information or particulars (however described) only in relation to the businesses which constitute any regulated activities for which it is registered.

(3) Where an associated entity is an authorized financial institution, a requirement in these Rules for a person to provide information or particulars (however described) to the Commission shall be construed as a requirement to provide information or particulars (however described) only in relation to its business of receiving or holding client assets in Hong Kong of any intermediary of which it is an associated entity.

⁴ Minor drafting amendment.

3. Information to be provided with applications to Commission

(1) For the purposes of section 128(1) of the Ordinance, an application to the Commission under the provisions referred to ~~below~~in this subsection⁵ shall be made in the applicable form (if any) specified by the Commission in accordance with section 402(1) of the Ordinance, and shall –

- (a) in the case of an application –
 - (i) under section 116 or 117 of the Ordinance by a corporation for a licence;
 - (ii) under section 119 of the Ordinance by an authorized financial institution for registration as a registered institution;
 - (iii) under section 127 of the Ordinance by an intermediary for variation of the regulated activity specified in its licence or certificate of registration; or
 - (iv) under section 134 of the Ordinance by an intermediary for the grant of a modification or waiver, in relation to the intermediary, in respect of any condition specified in or imposed under, or any of the requirements of the provisions referred to in subsection (1) of that section,
- contain, in so far as applicable, such information, details or matters in respect of the applicant or other person in each item in Part 1 of Schedule 4⁶ as are required to be specified by the form;

- (b) in the case of an application –

⁵ Minor drafting amendment.

⁶ Amendment consequential to the addition of a new Schedule. Footnote 1 is relevant.

- (i) under section 120(1) or (2) or 121(1) of the Ordinance by an individual for a licence ;
 - (ii) under section 122(1) of the Ordinance by a licensed representative for approval of his accreditation, or under section 122(2) of the Ordinance for approval of the transfer of his accreditation to another corporation licensed under section 116 or 117 (as the case may be) of the Ordinance;
 - (iii) under section 126 of the Ordinance by a licensed representative for approval as a responsible officer of a licensed corporation to which he is accredited;
or
 - (iv) under section 127 of the Ordinance by a licensed representative for a variation of the regulated activity specified in his licence by adding to or reducing the regulated activity so specified
 - (v) under section 134 of the Ordinance by a licensed representative for the grant of a modification or waiver, in relation to the licensed representative, in respect of any condition specified in or imposed under, or any of the requirements of the provisions referred to in subsection (1) of that section,
contain, in so far as applicable, such information, details or matters in respect of the applicant or other person in each item in Part 2 of Schedule 42⁶ as are required to be specified by the form; or
- (c) in the case of an application –

- (i) under section 130(1) of the Ordinance by a person for approval of premises to be used by a licensed corporation for keeping records or documents required under the Ordinance;
- (ii) under section 132 of the Ordinance by a person for approval to become or continue to be (as the case may be) a substantial shareholder of a corporation licensed under section 116 of the Ordinance;
- (iii) under section 134 of the Ordinance by a person (other than an intermediary or a licensed representative) for the grant of a modification or waiver, in relation to him, in respect of any condition specified in or imposed under, or any of the requirements of the provisions referred to in subsection (1) of that section; or
- (iv) by a person for any other matter requiring the approval of the Commission under Part V of the Ordinance,

contain, in so far as applicable, such information, statements or matters in respect of the applicant or other person in each item in Part 3 of Schedule 12⁶ as are required to be specified by the form.

⁶(2) Nothing in item 8 of Part 1 of Schedule 12, item 8 of Part 2 of Schedule 12, or item 6 of Part 3 of Schedule 12 shall require disclosure of information concerning an ongoing criminal investigation by a regulatory body or criminal investigatory body if such disclosure is prohibited by any statutory provision in Hong Kong or elsewhere, but the applicant shall notify the

Commission of the results of the investigation within 7 business days after he becomes aware of the completion of the investigation.

4. Changes to be notified by intermediaries, licensed representatives and substantial shareholders

(1) This section applies in relation to the information specified in Schedule 23⁶ that has been provided to the Commission under any provision of Part V of the Ordinance.

(2) Where there is a change in the information referred to in subsection (1), a notice in writing of the change containing a full description of it shall, within 7 business days after the change takes place, be given to the following person or persons –

- (a) (where the information has been provided in connection with an application under any provision of Part V of the Ordinance and the Commission is still considering the application) the Commission; or
- (b) (in other cases) the Commission and (if the information provided relates to a registered institution) the Monetary Authority.

(3) A licensed corporation shall give a notice in writing under subsection (2) if a change occurs in relation to any of the information specified in Part 1 of Schedule 23⁶.

(4) A registered institution shall give a notice in writing under subsection (2) if a change occurs in relation to any of the information specified in Part 2 of Schedule 23.

(5) A licensed representative shall give a notice in writing under subsection (2) if a change occurs in relation to any of the information specified in Part 3 of Schedule 23⁶.

(6) A substantial shareholder shall give a notice in writing under subsection (2) if a change occurs in relation to any of the information specified in Part 4 of Schedule 23⁶.

- (7) Subsections (2), (3), (4), (5) and (6) also apply to –
- (a) a corporation that has applied for a licence under section 116 or 117 of the Ordinance;
 - (b) an authorized financial institution that has applied for registration as a registered institution under section 119 of the Ordinance;
 - (c) an individual who has applied for a licence under section 120 or 121 of the Ordinance; or
 - (d) a person who has applied for approval to become or continue to be (as the case may be) a substantial shareholder of a corporation licensed under section 116 of the Ordinance,

as the case may be, before the application is withdrawn or granted or otherwise finally disposed of, with the modifications made under subsection (8).

(8) In subsections (3), (4), (5) and (6) and Schedule 23⁶, a reference to –

- (a) a licensed corporation;
- (b) a registered institution;
- (c) a licensed representative; and
- (d) a substantial shareholder,

shall be construed as including a reference respectively to –

- (e) the intended licensed corporation under subsection (7)(a);
- (f) the intended registered institution under subsection (7)(b);
- (g) the intended licensed representative under subsection (7)(c); and

- (h) the intended substantial shareholder under subsection (7)(d).

⁶(9) Nothing in item 7 of Part 1 of Schedule 23, item 7 of Part 2 of Schedule 23, item 5 of Part 3 of Schedule 23, or item 2 of Part 4 of Schedule 23 shall require disclosure of information concerning an ongoing criminal investigation by a regulatory body or criminal investigatory body if such disclosure is prohibited by any statutory provision in Hong Kong or elsewhere, but the applicant shall notify the Commission of the results of the investigation within 7 business days after he becomes aware of the completion of the investigation.

5. Information to be contained in annual returns

For the purposes of section 138(4) of the Ordinance, an annual return required to be submitted to the Commission shall –

- (a) in the case of a licensed corporation –
- (i) ~~contain~~ state the reporting period of the licensed corporation ~~the information specified in Part 1 of Schedule 3⁷~~; and
 - (ii) where there has been a change in the information provided to the Commission pursuant to Part V of the Ordinance, or rules made for the purposes of Part V of the Ordinance, and a full description of such change has not been provided to the Commission, contain a full description of the change; or
- (b) in the case of a licensed representative –

⁷ With the removal of the requirement to report on CPT compliance, the only remaining item in the previous Schedule 3 can be included in this clause. Footnote 3 is relevant.

- (i) ~~contain~~ state the reporting period of the licensed representative ~~the information specified in Part 2 of Schedule 3~~⁷; and
- (ii) where there has been a change in the information provided to the Commission pursuant to Part V of the Ordinance, or rules made for the purposes of Part V of the Ordinance, and a full description of such change has not been provided to the Commission, contain a full description of the change.

6. Information and particulars to be entered in register of licensed persons and registered institutions

(1) For the purposes of section 136(2)(e) of the Ordinance, the register maintained under section 136(1) of the Ordinance shall, in addition to the information referred to in section 136(2)(a), (b), (c) and (d) of the Ordinance, contain the particulars specified in Schedule 4.

(2) Where, pursuant to section 135 of the Ordinance and section 4, the Commission is notified of any change in the information or particulars relating to a licensed person or registered institution, it shall make such amendments in the register as it considers necessary to record the change.

(3) Information and particulars in the register ~~is~~^{are}⁸ to be updated at such intervals as the Commission considers appropriate.

⁸ Minor drafting amendment.

7. Correction of errors in register

Where an error exists in the register maintained under section 136 of the Ordinance, the Commission shall correct the error as soon as reasonably practicable⁹.

SCHEDULE 1¹

[s. 2]

MEANING OF THE TERMS “BASIC INFORMATION” AND “RELEVANT INFORMATION”

PART 1

BASIC INFORMATION

1. Basic information, in relation to an individual, means, in so far as applicable, the following particulars of the individual –

- (c) the title and the full personal name and surname in Chinese and English;
- (d) the date and place of birth;
- (e) gender;
- (f) the Chinese commercial code and the identification 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;
- (g) nationality;

⁹ Consistency with provisions of the Securities and Futures Ordinance.

- (h) the business, residential and correspondence addresses;
and
- (i) 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 –

- (a) the corporate name and business name in Chinese and
English;
- (b) former names and periods during which those names were
used;
- (c) the date and place of incorporation;
- (d) the number of its valid business registration certificate;
- (e) in the case of corporations incorporated outside Hong
Kong, the date of compliance with the provisions of Part
XI of the Companies Ordinance (Cap. 32) relating to the
registration of documents;
- (f) the address of its registered office;
- (g) the addresses of its places of business;
- (h) the correspondence address; and
- (i) the telephone and facsimile numbers, electronic mail
address and web site address.

PART 2

RELEVANT INFORMATION¹⁰

¹⁰ The information requirements are based on the original definition of “relevant information”. (Please see footnote 1), and are now presented in two categories for respective application to “an individual” and “a corporation”, in the light of the comment of some Members made at the

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 –

- (a) 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;
- (b) subject to any disciplinary action or investigation by a regulatory body or criminal investigatory body (as the case may be) ;
- (c) subject to any order of the court or other competent authority for fraud, dishonesty or misfeasance;
- (d) 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;
- (e) 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;
- (f) engaged in any judicial or other proceedings;
- (g) a party to a scheme of arrangement, or any form of compromise, with his creditors;
- (h) in default of compliance with any judgement or court order;

meeting on 24 October 2002. Same information is being asked of the applicants under the existing regime.

- (i) a substantial shareholder or director of a corporation which was wound up otherwise than by way of a members' voluntary winding up, or involved in the management of such corporation or business;
- (j) a partner of a firm which was dissolved other than with the consent of all the partners;
- (k) 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);
- (l) 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;
- (m) 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
- (n) disqualified from holding the office of director.

2. Relevant information in relation to a corporation means information on whether or not the corporation is or has been, in Hong Kong or elsewhere –

- (a) 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;

- (b) subject to any disciplinary action or investigation by a regulatory body or criminal investigatory body (as the case may be) ;
- (c) subject to any order of the court or other competent authority for fraud, dishonesty or misfeasance;
- (d) 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;
- (e) 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;
- (f) engaged in any judicial or other proceedings;
- (g) a party to a scheme of arrangement, or any form of compromise, with its creditors;
- (h) in default of compliance with any judgement or court order;
- (i) a substantial shareholder or director of a corporation which was wound up otherwise than by way of a members' voluntary winding up, or involved in the management of such corporation or business;
- (j) a partner of a firm which was dissolved other than with the consent of all the partners;
- (k) (in the case of a corporation other than a registered institution) insolvent or aware of the existence of any

matters that might render it insolvent or lead to the appointment of a liquidator;

- (l) 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
- (m) 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 42⁶

[s. 3]

INFORMATION TO BE PROVIDED WITH APPLICATIONS TO COMMISSION

PART 1

APPLICATIONS BY LICENSED CORPORATIONS AND REGISTERED INSTITUTIONS UNDER PROVISIONS REFERRED TO IN¹¹ SECTION

3(1)(a)

Item	Description of information
1.	Basic information in respect of –
	(a) the applicant;
	(b) each controlling person of the applicant;

¹¹ Minor drafting amendment.

- (c) each person who is, or is proposed to be, a responsible officer or executive officer of the applicant;
 - (d) each subsidiary of the applicant that carries on a business in any regulated activity; and
 - (e) each related corporation of the applicant that carries on a business in any regulated activity.
2. Basic information in respect of –
- (a) any corporation that is, or is proposed to be, an associated entity of the applicant; and
 - (b) ¹²any persons who ~~are~~is, or ~~are~~is proposed to be, an executive officers of an associated entity referred to in paragraph (a).
3. The name, correspondence address, contact telephone and facsimile numbers and electronic mail address of –
- (a) each contact person appointed by the applicant as the person whom the Commission may contact in the event of market emergency or other urgent need; and
 - (b) each person who is, or is proposed to be, a complaints officer of the applicant.

~~^{134.} A statement setting out the nature of the application.~~

~~^{135.} A statement setting out the reasons for the application.~~

^{134.} In the case of an application for -

¹² Minor drafting amendment.

¹³ Amendments made in the light of the comment of some Members made at the meeting on 24 October 2002, to set out clearly the information required.

(a) variation, under section 127 of the Ordinance, of the regulated activity for which the person is licensed or registered; and

(b) a modification or waiver under section 134 of the Ordinance, a statement setting out the nature of the application and the reasons for the application.

¹³5. In the case of an application for a temporary licence the period for which the licence is required.

¹⁴6. The details of any ~~registration or~~ authorization (however described) to carry on a regulated activity by an authority or regulatory organization ~~or authority~~ in Hong Kong or elsewhere in respect of each of the persons referred to in item 1.

7. In so far as applicable, the membership (however described) of a stock exchange or futures exchange in Hong Kong or elsewhere in respect of each of the persons referred to in item 1.

8. The relevant information in respect of each of the persons referred to in item 1.

9.¹⁵ ~~The following details, employment record,~~ in so far as applicable, in respect of each of the persons referred to in item 1

~~(a) his academic record showing the highest educational or vocational qualification achieved stating—~~

¹⁴ Minor drafting amendment.

¹⁵ To lessen the burden of the industry, the SFC decides to reduce the information requirements here.

- ~~(i) the names of educational or vocational establishments and courses that he has attended to obtain that qualification;~~
- ~~(ii) the dates when those courses were attended; and~~
- ~~(iii) the examinations passed to obtain that qualification;~~
- ~~(b) his professional record that provides —~~
 - ~~(i) the names of educational or vocational establishments and courses that he has attended;~~
 - ~~(ii) the dates when those courses were attended; and~~
 - ~~(iii) details of any professional qualifications achieved;~~
- ~~and~~
- ~~(c) his employment record that provides stating, in relation to each employer -~~
 - ~~(a) _____ the names of his employers;~~
 - ~~(b) _____ the position in which he is, or was, employed¹⁶; and~~
 - ~~(c) _____ the dates of such¹⁷ employment.~~

10. In the case of a person applying to be licensed as a licensed corporation, the financial information in respect of the applicant showing that it is capable of meeting its obligations under the Securities and Futures (Financial Resources) Rules (L.N. _____ of 2002).
11. The nature of the business carried on or to be carried on¹⁸ and types of services provided or to be provided by the applicant.

¹⁶ _____ To better clarify the information required.

¹⁷ _____ Minor drafting amendment.

¹⁸ _____ Minor drafting amendment.

12. Information relating to the human and technical resources, operational procedures, and organizational structures of the applicant showing that it is capable of carrying on its regulated activities, and its proposed regulated activities, competently.
13. The business history (if any) of the applicant and a business plan of the applicant covering internal controls, organizational structure, contingency plans and related matters.
14. The capital and shareholding structure of the applicant and the basic information in respect of any person in accordance with whose directions or instructions it is, or its directors are, accustomed or obliged to act.
15. Whether any assets of the applicant are subject to any charge (including, pledge, lien or encumbrance), and if so, the following particulars ~~that provides~~ –
- (a) (a) the date on which it is created the assets are subject to the charge;
 - (b) a description of the relevant assets; and
 - (c) the amount secured under the charge.¹⁹
16. In the case of a person applying to be licensed as a licensed corporation, the following particulars in respect of any bank account that he has opened for the purpose of carrying on regulated activities –
- (a) the name of the bank with which the account is opened;
 - (b) the number of the account; and
 - (c) whether the account is or was²⁰ a trust account.

¹⁹ Minor drafting amendment.

17. The name of the auditor of the applicant and the date of his appointment.
18. The address of each of the premises where –
- (a) the business of the applicant is, or is to be, conducted; and
 - (b) records of the applicant (in the case of a corporation other than a registered institution) are, or are to be kept.
19. In the case of a licensed corporation, or a person applying to be licensed as a licensed corporation, details of any policy of insurance maintained or to be maintained by the applicant in respect its business or proposed business (as the case may be), in accordance with rules made under section 116(5) of the Ordinance.²¹
20. In the case of a person applying to be licensed as a licensed corporation whether any substantial shareholder of the licensed corporation that is an individual has ever been a patient as defined in section 2 of the Mental Health Ordinance (Cap. 136)²².

PART 2

APPLICATIONS BY LICENSED REPRESENTATIVES UNDER PROVISIONS REFERRED TO IN²³ SECTION 3(1)(b)

²⁰ Drafting amendment to reflect more clearly the policy intention.

²¹ Amendments made in the light of the comment of some Members made at the meeting on 24 October 2002, to confine the type of insurance that requires reporting.

²² The information required upon making an application is consistent with the notification of change requirement in Schedule 3 Part 4.

²³ Minor drafting amendment.

Item	Description of information
1.	<p>Basic information and CE number (if any) in respect of –</p> <p>(a) the applicant; and</p> <p>(b) the licensed corporation to which the applicant is accredited or wishes<u>seeks</u>²⁴ to be accredited.</p>
132.	A statement setting out the nature of the application.
^{132.}	<p><u>In the case of an application for -</u></p> <p>(a) <u>variation, under section 127 of the Ordinance, of the regulated activity for which the person is licensed; and</u></p> <p>(b) <u>a modification or waiver under section 134 of the Ordinance,</u></p> <p><u>a statement setting out the nature of the application and the reasons for the application.</u></p>
3.	A statement setting out the reasons for the application.
^{133.}	<p><u>In the case of an application for a temporary licence the period for which the licence is required.</u></p>
^{254.}	<p>The details of any registration or authorization (however described) to carry on a regulated activity of the applicant by <u>an authority or</u> regulatory organization or authority in Hong Kong or elsewhere, and whether the applicant's travel document is endorsed with a condition of stay prohibiting him from taking employment in Hong Kong.</p>

²⁴ Minor drafting amendment.

²⁵ Minor drafting amendment.

5. In so far as applicable, the membership (however described) of a stock exchange or futures exchange in Hong Kong or elsewhere in respect of each of the persons referred to in item 1.
- ²⁶6. The types of services provided or to be provided by the applicant on behalf of the licensed corporation to which the applicant is accredited or ~~wishes~~seeks to be accredited.
7. A description of any current directorship, partnership or proprietorship of the applicant and the dates of appointment, or commencement, of any such directorship, partnership or proprietorship (as the case may be).
8. The relevant information in respect of the applicant.
- ²⁷9. The following details, in so far as applicable, in respect of each of the persons referred to in item 1 –
- (a) his academic record ~~that provides~~stating –
 - (i) the names of post secondary educational or vocational establishments that he has attended;
 - (ii) the courses completed at such establishments and the dates when those courses were attended;
 - (iii) the examinations passed to obtain any post secondary educational or vocational qualification; and
 - (iv) in the case of a person who has not obtained a post secondary educational or vocational qualification,

²⁶ Minor drafting amendment.

²⁷ Minor drafting amendment, and to lessen the burden of the industry, the SFC decides to reduce the information requirements here.

whether or not he has obtained passes in the Hong Kong Certificate of Education Examination, or equivalent examinations, in the following subjects –

(A) ~~English or Chinese~~ or English language;
and

(B) Mathematics;

- (b) his professional record ~~that provides~~stating –
- (i) the names of educational or vocational establishments and courses that he has attended;
 - (ii) the dates when those courses were attended; and
 - (iii) details of any professional qualifications ~~achieved~~obtained; and
- (c) his employment record ~~that provides~~stating, in relation to each employer –
- (i) the name of his employer;
 - (ii) the position in which he is, or was, employed; and
 - (iii) the dates of such employment.

10. Whether or not the applicant has ever been a patient as defined in section 2 of the Mental Health Ordinance (Cap. 136).

PART 3

OTHER APPLICATIONS MADE UNDER PROVISIONS REFERRED TO

IN²⁸ SECTION 3(1)(c)

Item	Description of information
1.	Basic information in respect of – <ol style="list-style-type: none"> (a) the applicant; (b) each controlling person of the applicant (in the case of an intermediary)²⁹; (c) each person who is, or is proposed to be, a responsible officer or executive officer of the applicant; (d) each subsidiary of the applicant that carries on a business in any regulated activity; and (e) each related corporation of the applicant that carries on a business in any regulated activity
2.	Basic information in respect of – <ol style="list-style-type: none"> (a) any corporation that is, or is proposed to be, an associated entity of the applicant; and (b) any persons who are, or are proposed to be, executive officers of an associated entity referred to in paragraph (a).
3. ¹³	A statement setting out the nature of the application.
4. ¹³	A statement setting out the reason for the application.
¹³ 3.	<u>In the case of an application for -</u> <ol style="list-style-type: none"> (a) <u>a modification or waiver under section 134 of the Ordinance; and</u>

²⁸ Minor drafting amendment.

²⁹ In addition to the financial information relating to each controlling person of an applicant to become a substantial shareholder required under the old item 5 (now subsumed under the new item 6), the basic information of such person is also necessary.

(b) an application for any matter requiring the approval of the Commission under Part V of the Ordinance other than those matters referred to in section 128(1)(a) to (h) of the Ordinance, a statement setting out the nature of the application and the reasons for the application.

~~5.³⁰In the case of a person applying for approval to become or continue to be (as the case may be) a substantial shareholder of a licensed corporation under section 132 of the Ordinance, the financial information concerning the applicant and its business and each controlling person of the applicant to show that it is a fit and proper person to be a substantial shareholder of the licensed corporation.~~

~~6.³¹The relevant information in respect of each of the persons referred to in item 1.~~

7.4. In the case of a person applying for approval of premises under section 130(1) of the Ordinance –

- (a) the address of each of the premises where records or documents required under the Ordinance are to be kept by the applicant; and
- (b) evidence that the premises are suitable for being used for the purpose of keeping records or documents required under the Ordinance.

7.5. The relevant information in respect of each of the persons referred to in item 1.³¹

³⁰ The substance of this item is now subsumed under the new item 6.

³¹ Drafting amendment to relocate this item as the new item 5.

6. In the case of a person applying for approval to become or continue to be (as the case may be) a substantial shareholder of a licensed corporation under section 132 of the Ordinance –

- (a) the financial information in respect of the applicant showing that it is a fit and proper person to be a substantial shareholder of the licensed corporation;
- (b) details of any authorization (however described) by an authority or regulatory organization in Hong Kong or elsewhere for any of the persons referred to in item 1 to carry on a regulated activity;
- (c) in so far as applicable, the membership (however described) of a stock exchange or futures exchange in Hong Kong or elsewhere in respect of each of the persons referred to in item 1; and
- (d) in so far as applicable, the employment record in respect of each of the persons referred to in item 1, stating in relation to each employer -
 - (i) the name of his employer;
 - (ii) the position in which he is, or was, employed; and
 - (iii) the dates of such employment.³²

7. In the case of a person that is an individual that is applying to be approved as a substantial shareholder of a licensed corporation, whether he has ever been a patient as defined in section 2 of the Mental Health Ordinance (Cap. 136).³³

³² Information required in relation to a substantial shareholder applicant, consistent with existing practice.

³³ Information required in relation to a substantial shareholder applicant, consistent with existing

SCHEDULE ~~3~~⁶²

[s. 4]

NOTIFICATION OF CHANGES

PART 1

CHANGES TO BE NOTIFIED BY LICENSED
CORPORATIONS

Item	Description of information
1.	Changes in the basic information in respect of – <ul style="list-style-type: none"> (a) the licensed corporation; (b) each controlling person of the licensed corporation; (c) each person who is a responsible officer of the licensed corporation; and (d) each subsidiary of the licensed corporation that carries on a business in any regulated activity.
2.	Changes in the persons who are controlling persons, responsible officers or subsidiaries of the licensed corporation that carry on a business in any regulated activity.
³⁴ 3.	Changes in the following particulars of any corporation that is, or becomes, or ceases to be, an associated entity of the licensed corporation –

³⁴ practice.
Minor drafting amendment.

- (a) in the case where the corporation is an intermediary –
 - (i) the basic information in respect of the corporation;
 - (ii) its CE number;
 - (iii) the date of its becoming, or ceasing to be, an associated entity;
 - (iv) whether it has any executive officers; and
 - (v) the basic information in respect of its executive officers (if any); and
- (b) in any other case –
 - (i) the basic information in respect of the corporation;
 - (ii) the date of its becoming, or ceasing to be, an associated entity;
 - (iii) whether it has any executive officers;
 - (iv) the basic information in respect of its executive officers (if any);
 - (v) in the case of a corporation becoming an associated entity, the facts that gave rise to the corporation becoming an associated entity; and
 - (vi) in the case of a corporation ceasing to be an associated entity, the facts that gave rise to the corporation ceasing to be an associated entity and (except in the case of an authorized financial institution) confirmation that all client assets of the intermediary that are received or held by the corporation prior to its ceasing to be an associated entity have been fully accounted for and properly disposed of and, if not, the particulars of any such

client assets of the intermediary that have not been fully accounted for and properly disposed of.

4. Changes in the name, correspondence address, contact telephone and facsimile numbers and electronic mail address of –
 - (a) each contact person appointed by the licensed corporation as the person whom the Commission may contact in the event of market emergency or other urgent need; and
 - (b) each person who is, or is proposed to be, a complaints officer of the licensed corporation.

- ³⁵5. Changes in the status of any ~~registration or~~ authorization (however described) to carry on a regulated activity by an authority or regulatory organization ~~or authority~~ in Hong Kong or elsewhere in respect of each of the persons referred to in item 1.

6. 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 persons referred to in item 1.

7. Changes in the relevant information in respect of each of the persons referred to in item 1.

- ³⁶8. 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 licensed corporation.

³⁵ Minor drafting amendment.

9. Significant changes in the business plan of the licensed corporation covering internal controls, organizational structure, contingency plans and related matters.
10. Changes in the capital and shareholding structure of the licensed corporation, or of any person in accordance with whose directions or instructions the licensed corporation is, or its directors are, accustomed or obliged to act.
- ³⁷11. Changes in the information regarding any assets of the applicant licensed corporation that are subject to any charge, (including pledge, lien or encumbrance).
- ³⁸12. Changes in the information ~~provided to the Commission~~ regarding bank accounts of the licensed corporation relating to the conduct of regulated activities stating –
- (a) whether an account has been opened or closed or has ~~been rendered~~become dormant or ordered to be frozen by a competent authority;
 - (b) the name of the bank with which the account has been opened or closed or ~~rendered~~become dormant or ordered to be frozen by a competent authority;
 - (c) the number of the account;
 - (d) the date of opening or closing any such account; and
 - (e) whether the account is or was a trust account.

³⁶ Minor drafting amendment.

³⁷ Minor drafting amendment.

³⁸ Minor drafting amendment.

- 13.. Changes in the name of the auditor of the licensed corporation and the reasons for the change in the auditor.
- 14.. Changes in the address of each of the premises where the business of the licensed corporation is, or is to be, conducted.
15. The address of each of the premises where records or documents of the licensed corporation are no longer kept.
- ²¹16. Changes in any ~~policy of insurance maintained or previously maintained by the applicant licensed corporation in respect its business.~~ in accordance with rules made under section 116(5) of the Ordinance.

PART 2

CHANGES TO BE NOTIFIED BY REGISTERED INSTITUTIONS

- | Item | Description of information |
|------|--|
| 1. | <p>Changes in the basic information in respect of –</p> <ol style="list-style-type: none"> (a) the registered institution; (b) each controlling person of the registered institution; (c) each person who is an executive officer of the registered institution; and (d) each subsidiary of the registered institution that carries on a business in any regulated activity. |

2. Changes in the persons who are controlling persons, executive officers or subsidiaries of the registered institution that carry on a business in any regulated activity.

- ³⁹3. Changes in the following particulars of any corporation that is, or becomes, or ceases to be, an associated entity of the registered institution –
 - (a) in the case where the corporation is an intermediary –
 - (i) the basic information in respect of the corporation;
 - (ii) its CE number;
 - (iii) the date of its becoming, or ceasing to be, an associated entity;
 - (iv) whether it has any executive officers; and
 - (v) the basic information in respect of its executive officers (if any); and
 - (b) in any other case –
 - (i) the basic information in respect of the corporation;
 - (ii) the date of its becoming, or ceasing to be, an associated entity;
 - (iii) whether it has any executive officers;
 - (iv) the basic information in respect of its executive officers (if any);
 - (v) in the case of a corporation becoming an associated entity, the facts that gave rise to the corporation becoming an associated entity; and
 - (vi) in the case of a corporation ceasing to be an associated entity, the facts that gave rise to the

³⁹ Minor drafting amendment.

corporation ceasing to be an associated entity and (except in the case of an authorized financial institution) confirmation that all client assets of the intermediary that are received or held by the corporation prior to its ceasing to be an associated entity have been fully accounted for and properly disposed of and, if not, the particulars of any such client assets of the intermediary that have not been fully accounted for and properly disposed of.

4. Changes in the name, correspondence address, contact telephone and facsimile numbers and electronic mail address of –
 - (a) each contact person appointed by the registered institution as the person whom the Commission may contact in the event of market emergency or other urgent need; and
 - (b) each person who is, or is proposed to be, a complaints officer of the registered institution.

- ⁴⁰5. Changes in the status of any ~~registration or~~ authorization (however described) to carry on a regulated activity by an authority or a regulatory organization ~~or authority~~ in Hong Kong or elsewhere in respect of each of the persons referred to in item 1.

6. 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 persons referred to in item 1.

⁴⁰ Minor drafting amendment.

7. Changes in the relevant information in respect of each of the persons referred to in item 1.
- ⁴¹8. 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 registered institution.
9. Significant changes in the business plan of the registered institution covering internal controls, organizational structure, contingency plans and related matters.
10. Changes in the capital and shareholding structure of the registered institution, or of any person in accordance with whose directions or instructions the registered institution is, or its directors are, accustomed or obliged to act.
11. Changes in the name of the auditor of the registered institution and the reasons for the change in the auditor.

PART 3

CHANGES TO BE NOTIFIED BY LICENSED REPRESENTATIVES

- | Item | Description of information |
|------|---|
| 1. | Changes in the basic information in respect of the licensed representative. |

⁴¹ Minor drafting amendment.

2. ⁴²Changes in the status of any ~~registration or authorization~~ (however described) to carry on a regulated activity by an authority or regulatory organization or authority in Hong Kong or elsewhere in respect of the licensed representative.
3. Changes in the status of the licensed representative's membership (however described) of a stock exchange or futures exchange in Hong Kong or elsewhere.
4. ⁴³Significant changes in the types of services provided, or to be provided, by the licensed representative on behalf of the licensed corporation to which the licensed representative is accredited or ~~wishes~~seeks to be accredited.
5. Changes in the relevant information in respect of the licensed representative.
6. Changes in whether or not the licensed representative has ever been a patient as defined in section 2 of the Mental Health Ordinance (Cap.136).
7. Changes in the status of any directorship, partnership or proprietorship of the licensed representative⁴⁴.

⁴² Minor drafting amendment.

⁴³ Minor drafting amendment.

⁴⁴ Schedule 2 Part 2 item 7 calls for details of directorships; changes in those directorships should also be notified in Schedule 3 Part 3 item 7.

PART 4

CHANGES TO BE NOTIFIED BY SUBSTANTIAL
SHAREHOLDERS

Item	Description of information
1.	Changes in the basic information in respect of the substantial shareholder.
2.	Changes in the relevant information in respect of the substantial shareholder.
3.	Significant changes in the capital and shareholding structure of the substantial shareholder.
4.	In the case of an individual, changes in whether or not the substantial shareholder has ever been a patient as defined in section 2 of the Mental Health Ordinance (Cap.136).

~~SCHEDULE 3⁷~~~~[s. 5]~~~~INFORMATION IN ANNUAL RETURNS~~~~PART 1~~~~INFORMATION IN ANNUAL RETURNS OF LICENSED
CORPORATIONS~~

Item	Description of information
1.	The reporting period of the licensed corporation.
2.	Information to enable the Commission to assess whether

- ~~(a) the licensed corporation has implemented a training programme to meet the training needs of its licensed representatives;~~
- ~~(b) the licensed corporation has evaluated its training programme at least once during the last calendar year;~~
- ~~(c) each of the licensed corporation's licensed representatives has undergone the number of CPT hours he is obliged to undergo during the last calendar year; and~~
- ~~(d) the licensed corporation has maintained sufficient records as evidence of its training programme and the continuous professional training undertaken by each of its licensed representatives.~~

~~PART 2~~

~~INFORMATION IN ANNUAL RETURNS OF LICENSED REPRESENTATIVES~~

Item	Description of information
1.	The reporting period of the licensed representative.
2.	Information to enable the Commission to assess whether the licensed representative has
	(a) undergone the number of CPT hours he is obliged to undergo during the last calendar year; and

~~(b) retained sufficient records of all his CPT activities undertaken during the last calendar year.~~

SCHEDULE 4

[s. 6(1)]

PARTICULARS TO BE CONTAINED IN REGISTER

PART 1

PARTICULARS OF LICENSED PERSONS TO BE CONTAINED IN REGISTER

The following particulars in respect of a licensed person shall be contained in the register –

- (a) his CE number;
- (b) the date of grant of the licence under Part V of the Ordinance;
- (c) in the case of a corporation –
 - (i) its electronic mail address (if any) and web site address (if any);
 - (ii) its contact details (including correspondence address, telephone and facsimile numbers and electronic mail address) of its complaints officer;
 - (iii) whether it holds a licence granted under section 117 of the Ordinance; and
 - (iv) a list of its accredited representatives;
- (d) in the case of a licensed representative –
 - (i) whether he holds a provisional licence granted under section 120(2) of the Ordinance;

- (ii) whether he holds a licence granted under section 121 of the Ordinance;
- (iii) whether he is approved as a responsible officer and, if so, the regulated activity for which he is responsible; and
- (iv) the date of accreditation to his principal;⁴⁵
- ~~(e)~~ (e) the effective date of such conditions (if any) of the licence as the Commission contains in the register under section 136(2)(b) of the Ordinance;
- ~~(d)~~ (f) the regulated activity or activities for which the licensed⁴⁶ person is licensed and the effective date of the approval for the person to carry on the regulated activity or activities;
- ~~(e)~~ (g) whether or not the licence is suspended;
- ~~(f)~~ (h) the modification or waiver granted (if any), together with such particulars as the Commission considers appropriate in relation to any condition imposed, and the corresponding effective date; and⁴⁷
- ~~(g)~~ (i) a record of each public disciplinary action (if any) taken by the Commission against him in Hong Kong that is not the subject of a pending appeal, or a successful appeal, and the record of each disciplinary action is to be kept in the register for a period of 5 years from the date when the relevant disciplinary action takes effect;
- ~~(h)~~ in the case of a corporation—

⁴⁵ The old items (h) and (i). Rearrangement of provisions for greater consistency.

⁴⁶ Minor drafting amendment.

⁴⁷ Minor drafting amendment.

- ~~(i) its electronic mail address (if any) and web site address (if any);~~
- ~~(ii) its contact details (including correspondence address, telephone and facsimile numbers and electronic mail address) of its complaints officer;~~
- ~~(iii) whether it holds a licence granted under section 117 of the Ordinance; and~~
- ~~(iv) a list of its accredited representatives; and~~
- ~~(i) in the case of a licensed representative—~~
 - ~~(i) whether he holds a licence granted under section 121 of the Ordinance;~~
 - ~~(ii) whether he holds a provisional licence granted under section 120(2) of the Ordinance;~~
 - ~~(iii) whether he is approved as a responsible officer and, if so, the regulated activity for which he is responsible; and~~
 - ~~(iv) the date of accreditation to his principal.~~

PART 2

PARTICULARS OF REGISTERED INSTITUTIONS TO BE CONTAINED IN REGISTER

The following particulars in respect of a registered institution shall be contained in the register –

- (a) its CE number;
- (b) the date of grant of the registration under Part V of the Ordinance;

- (c) the effective date of such conditions (if any) of the ~~certificate~~registration⁴⁸ as the Commission contains in the register under section 136(2)(b) of the Ordinance;
- (d) the regulated activity or activities for which the registered⁴⁸ institution is registered and the effective date of the approval for the institution to carry on the regulated activity or activities;
- (e) whether or not the registration is suspended;
- (f) the modification or waiver granted (if any), together with such particulars as the Commission considers appropriate in relation to any condition imposed, and the corresponding effective date;
- (g) a record of each public disciplinary action (if any) taken by the Commission against it in Hong Kong that is not the subject of a pending appeal, or a successful appeal, and the record of each disciplinary action is to be kept in the register for a period of 5 years from the date when the relevant disciplinary action takes effect;
- (h) its electronic mail address (if any) and web site address (if any); and
- (i) its contact details (including correspondence address, telephone and facsimile numbers and electronic mail address) of its complaints officer.

⁴⁸ Minor drafting amendments.

Chairman,
Securities and Futures Commission

2002

Explanatory Note

These Rules are made by the Securities and Futures Commission ("Commission") under sections 128 and 397(1) of the Securities and Futures Ordinance (Cap. 571). They prescribe the information that is to be provided to the Commission by a person making an application to the Commission under Part V of the Ordinance and the matters and changes that are required to be notified by licensed persons, its substantial shareholders and registered institutions to the Commission. They also prescribe for the purposes of section 138(4) of the Ordinance the information that is required to be contained in an annual return submitted to the Commission by a corporation or individual licensed under section 116(4) or 120(1) of the Ordinance. The Rules further prescribe the particulars that are to be entered in the register of licensed persons and registered institutions.