

L.N. 211 of 2002

Securities and Futures (Accounts and Audit)

Rules

(Made by the Securities and Futures Commission under section 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

In these Rules, unless the context otherwise requires---

"dealing in securities" (證券交易) has the meaning assigned to it by Part 2 of Schedule 5 to the Ordinance;

"margin client" (保證金客戶) means---

(a) in relation to a corporation licensed for dealing in securities, a client to whom the corporation provides securities margin financing; or

(b) a client of a corporation licensed for securities margin financing;

"systems of control" (監控系統), in relation to a licensed corporation or an associated entity of an intermediary, means in so far as applicable the internal controls and trading, accounting, settlement and stock holding systems it has implemented to ensure its compliance with the provisions specified in section 4(1)(e).

3. Financial statements and other documents to be prepared by licensed corporations and associated entities of intermediaries

(1) For the purposes of section 156(1)(a) of the Ordinance, the financial statements and other documents that a licensed corporation shall prepare, in respect of each financial year, are---

(a) a set of accounts consisting of each of the following, prepared in accordance with generally accepted accounting principles---

(i) a profit and loss account;

(ii) a balance sheet; and

(iii) notes to the accounts;

(b) in so far as applicable, the following returns as referred to in section 56 of the Securities and Futures (Financial Resources) Rules (L.N. 209 of 2002), each made up to the last day of the financial year---

(i) a liquid capital computation;

(ii) a required liquid capital computation;

(iii) a summary of bank loans, advances, credit facilities and other financial

accommodation available to it;

- (iv) an analysis of its margin clients;
- (v) an analysis of collateral received from margin clients;
- (vi) an analysis of its rolling balance cash clients;
- (vii) an analysis of its client assets; and
- (viii) an analysis of its proprietary derivative positions; and

(c) a business and risk management questionnaire.

(2) For the purposes of section 156(2)(a) of the Ordinance, the financial statements and other documents required to be prepared by a licensed corporation that ceases carrying on all of the regulated activities for which it is licensed are--

- (a) a set of accounts as referred to in subsection (1)(a); and
- (b) a liquid capital computation as referred to in subsection (1)(b)(i).

(3) For the purposes of section 156(1)(a) of the Ordinance, the financial statements and other documents that an associated entity of an intermediary shall prepare, in respect of each financial year, are---

- (a) a set of accounts consisting of each of the following, prepared in accordance with generally accepted accounting principles---
- (i) a profit and loss account;
- (ii) a balance sheet; and
- (iii) notes to the accounts;
- (b) an analysis of client assets as at the end of the financial year; and
- (c) a business and risk management questionnaire.

(4) For the purposes of section 156(2)(a) of the Ordinance, the financial statements and other documents required to be prepared by an associated entity of an intermediary that ceases to be such an associated entity are---

- (a) a set of accounts as referred to in subsection (3)(a); and
- (b) an analysis of client assets as referred to in subsection (3)(b).

4. Auditor's report

(1) For the purposes of section 156(1)(b) or (2)(b) of the Ordinance, an auditor's report required to be submitted by a licensed corporation or an associated entity of an intermediary shall contain a statement by the auditor as to whether, in the auditor's opinion---

- (a) the profit and loss account and the balance sheet are in accordance with the records kept by the licensed corporation or the associated entity (as the case may be) under the Securities and Futures (Keeping of Records) Rules (L.N. 210 of 2002) and satisfy the requirements of these Rules;
- (b) the balance sheet gives a true and fair view of the state of affairs of the licensed

corporation or the associated entity (as the case may be) as at the end of the financial year to which it relates;

(c) the profit and loss account gives a true and fair view of the profit or loss of the licensed corporation or the associated entity (as the case may be) for the financial year to which it relates;

(d) in the case of a licensed corporation, each of the returns as referred to in section 3(1)(b) or (2)(b) (as the case may be) is correctly compiled from the records of the licensed corporation or, if not correctly compiled, the nature and extent of the incorrectness;

(e) in so far as applicable, during the financial year in question, the licensed corporation or the associated entity (as the case may be) had systems of control in place that were adequate to ensure compliance with---

(i) sections 4, 5, 6, 8(4), 10 and 11 of the Securities and Futures (Client Money) Rules (L.N. 202 of 2002); and

(ii) sections 4(4), 5, 10(1) and 12 of the Securities and Futures (Client Securities) Rules (L.N. 201 of 2002);

(f) in so far as applicable, during the financial year in question, the licensed corporation or the associated entity (as the case may be) has complied with---

(i) sections 3 and 4 of the Securities and Futures (Keeping of Records) Rules (L.N. 210 of 2002);

(ii) sections 4, 5, 6, 8(4), 10 and 11 of the Securities and Futures (Client Money) Rules (L.N. 202 of 2002); and

(iii) sections 4(4), 5, 10(1) and 12 of the Securities and Futures (Client Securities) Rules (L.N. 201 of 2002); and

(g) in the case of a licensed corporation, there appears to have been any contravention of the Securities and Futures (Financial Resources) Rules (L.N. 209 of 2002) by the licensed corporation during the financial year in question.

(2) A licensed corporation or an associated entity of an intermediary (as the case may be) may submit 2 separate auditor's reports in respect of a financial year, one containing a statement by the auditor concerning the matters referred to in subsection (1)(a), (b) and (c) and the other containing a statement by the auditor concerning the matters referred to in subsection (1)(d), (e), (f) and (g).

5. Matters reportable by auditors under section 157 of the Ordinance

The following provisions are prescribed requirements for the purposes of the definition of "prescribed requirement" in section 157(3) of the Ordinance---

(a) sections 3 and 4 of the Securities and Futures (Keeping of Records) Rules (L.N. 210 of 2002);

(b) sections 4, 5, 6, 8(4), 10 and 11 of the Securities and Futures (Client Money) Rules (L.N. 202 of 2002);

(c) sections 4(4), 5, 10(1) and 12 of the Securities and Futures (Client Securities) Rules (L.N. 201 of 2002).

Andrew Len Tao SHENG

Chairman,

Securities and Futures Commission

2 December 2002

Explanatory Note

These Rules are made by the Securities and Futures Commission under section 397(1) of the Securities and Futures Ordinance (Cap. 571) ("the Ordinance"). They prescribe for the purposes of sections 156(1)(a) and (2)(a) of the Ordinance the financial statements and other documents that licensed corporations and associated entities of intermediaries shall prepare. They also prescribe the matters upon which an auditor shall make a statement in his report under sections 156(1)(b) and (2)(b) of the Ordinance on the accounts of the licensed corporation or the associated entity he is auditing. In addition, they prescribe certain provisions as requirements for the purposes of reporting by auditors under section 157 of the Ordinance.