
Transitional period arrangements

When will the transitional period commence?

Posted on 17.03.2003

13.1 The transitional period will commence on the date the SFO commences (i.e. 1 April 2003). It will last for 2 years from that date.

Can a dealing director automatically be deemed to be a responsible officer?

Posted on 4.09.2003

13.2 During the transitional period, a dealing director under the former regime will be deemed to be a responsible officer. However, before the end of the transitional period, he will have to apply (through completing Migration Application Form 3(x)) to be a licensed representative and be approved as a responsible officer.

Do those persons “deemed” to be responsible officers during the transitional period have to pass any examinations in order to be responsible officers under the new regime during the transitional period?

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13.3 No. Provided that the regulated activities concerned are those for which they are deemed to be licensed.

If a representative resigns from his principal in late March 2003, will he be granted the 180-day grace period for transfer of accreditation assuming that the SFO comes into operation on 1 April 2003?

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13.4 If the revocation procedures in relation to the representative’s licence start before the SFO commences, the grace period will be 60 days as in accordance with the former licensing regime.

Some investment advisers are restricted from holding clients assets by condition. Will this condition continue to apply during the transitional period?

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13.5 Yes.

If my licence has a condition similar to the “specified licensing condition”, do I need to return the Reply Slip in order to be entitled to those less stringent financial resources requirements?

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13.6 No. If you have a condition which disallows you to “hold”, “handle” or “control” client assets, you do not have to return the Reply Slip to the SFC.

During the transitional period, will investment advisers and dealers be deemed as licensed representatives or responsible officers?

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13.7 All supervisory directors of the former regime will be deemed to be licensed representatives and approved as responsible officers.

Regarding sole proprietors, do they need to incorporate their business before the end of the transitional period?

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13.8 Yes. They need to do so if they intend to carry out regulated activity after the transitional period.

After a dealer successfully migrates to the new regime, will the fee and Continuous Professional Training (CPT) concessions available to him during the transitional period stop or be reduced?

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13.9 He will enjoy all the concessions in terms of fee and CPT available to him during the transitional period. Such concessions will be valid throughout the transitional period regardless of whether or not he migrates to the new regime.

If a person submits a licence application before the SFO commences and the application process straddles the commencement of the SFO, will he be required to lodge his application again?

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13.10 No. The application will be considered as if it was lodged under the SFO. However, the SFC will ask the applicant to specify the type(s) of regulated activity he wishes to undertake. No additional application fee is required.

If a person is deemed to be licensed under the transitional provisions, does he need to comply with the requirements under the SFO?

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13.11 Yes. A licensee is required to observe all applicable requirements in relation to the regulated activities for which he is licensed. For details, please refer to the circular of 18 December 2002 issued by the SFC regarding "Compliance under the SFO" (which can be found in the SFC's website under Regulatory Handbook – Codes, Guidelines and Circulars).

Where can I find the details of transitional arrangements?

Posted on 17.03.2003

13.12 You may refer to the Guidelines on Transitional Arrangements published by the SFC in March 2003. The Guidelines explain the special arrangements that will apply to existing registered and exempt persons when the SFO commences. They also set out how these persons will migrate to the new regime and highlight certain new regulatory requirements applicable to them.

I am a representative deemed to be licensed for Type 1, 4, 6 and 9 regulated activities. I want to change job. What should I do?

Posted on 18.06.2003

13.13 Our advice to you is that you should migrate to the new regime by submitting Migration Application Form 3(x) before changing your employer. You do not have to pay any fee for applying for migration. After you have migrated to the new regime, you will have 180 days to find a new employer before revocation of your licence. When you do find a new employer, you only need to submit a Form 4 Miscellaneous Applications and pay for change of accreditation fee, i.e., \$200 per regulated activity.

If you resign now, you will cease to be licensed. When you apply to be accredited to a new employer, you will be treated as a new applicant. If you apply for 4 regulated activities, you will have to pay \$1,790 x 4.

Our firm, being a stock broking firm, is deemed to be licensed for Type 1, 4, 6 and 9 regulated activities. Can it apply for Type 6 regulated activity – advising on corporate finance when migrating to the new regime even though this is a new line of business for us?

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13.14 Yes. However, depending on the competence of your responsible officers (please refer to the Guidelines on Competence), the SFC may in some instances restrict the scope of your proposed new business activity by imposing certain licensing condition. For instance, you may only advise clients on matters pertaining to Codes on Takeovers and Mergers and Shares Repurchases as

a co-adviser in collaboration with another competent adviser i.e. a corporate finance adviser whose licence is not subject to such licensing condition.

I was a dealer's representative, I am now deemed to be licensed for Type 1, 4, 6 and 9 regulated activities. How much annual fees do I have to pay?

Posted on 4.09.2003

13.15 \$1,790. The SFC will issue debit note for this annual fee at each anniversary date during the transitional period.

I was a dealer's representative, I am now deemed to be licensed for Type 1, 4, 6 and 9 regulated activities, I want to apply for migration to the new regime. How much application fees do I have to pay?

Posted on 18.06.2003

13.16 None.