

## Licensing conditions

Under the Securities and Futures (Financial Resources) Rules, a corporation licensed to carry on Type 4, 5, 6, 9 or 10 regulated activity needs to comply with less stringent financial resources requirements if its licence is subject to a “specified licensing condition” that it does not hold client assets. Can a corporation request the SFC to impose such a condition on its licence if it does not hold client assets?

Posted on 01.06.2011

6.1 Yes.

Under the Securities and Futures (Insurance) Rules, a licensed corporation, which is not an exchange participant, is not required to take out insurance if its licence is subject to the condition that the corporation shall not hold client assets. Can a corporation request the SFC to impose such a condition on its licence if it does not hold client assets?

Posted on 18.06.2003

6.2 Yes.

I am a responsible officer of a licensed corporation ("Firm A") and am licensed to carry out one type of regulated activity without any licensing conditions. Firm A only engages in a small range of regulated activity serving a specific clientele under its licence.

I intend to leave Firm A for a new position in another licensed corporation ("Firm B"). Firm B is licensed for the same regulated activity as Firm A but engages in a wider range of services and serves a greater variety of clients. Under Firm B, I will also be given sufficient authority to become a responsible officer and will be supervising the same regulated activity as I did under Firm A. If I have no misconduct or have not breached any relevant rules and regulations, will I be granted the same licence as a responsible officer without any licensing condition given that I will be carrying out the same regulated activity with Firm B upon the change of accreditation?

Posted on 30.08.2006

6.3 When applying for a transfer of accreditation, the SFC must be satisfied that a representative applicant is competent to carry out the duties to the requisite standard for or on behalf of the licensed corporation concerned. If the applicant seeks approval as a responsible officer at the same time, the SFC would also need to be satisfied that he is a fit and proper person to be so approved and that he has sufficient authority within the new principal. In this case, the applicant has sufficient authority within Firm B to supervise a broader range of services with a wider scope of clientele for Firm B. The applicant must be able to demonstrate that he is a fit and proper person under the SFO and as stipulated in the Fit and Proper Guidelines. If the applicant is able to do so, the SFC would then focus on considering whether the applicant is competent to discharge his additional responsibilities for Firm B. Depending on the specific circumstances of each case of transfer of accreditation, the

SFC may impose licensing conditions on the applicant due to a change in circumstances.

The following are some commonly seen licensing conditions that may be imposed on a responsible officer during a change of accreditation:

**For Type 1 regulated activity:**

- ❖ The licensee shall only perform distribution function for collective investment schemes.
- ❖ The licensee shall only provide services to professional investors. The term "professional investor" is as defined in Part 1 of Schedule 1 to the Securities and Futures Ordinance.
- ❖ The licensee shall only engage in underwriting, sub-underwriting and placing of securities.
- ❖ The licensee shall not engage in dealing activities other than those relating to corporate finance.

**For Type 3 regulated activity:**

- ❖ The licensee shall not provide discretionary account services to clients.

**For Type 6 regulated activity:**

- ❖ The licensee shall not advise on matters/transactions falling within the ambit of the Codes on Takeovers and Mergers and Share Repurchases issued by the Commission.
- ❖ The licensee must, in the capacity as an adviser to a client on matters/transactions falling within the ambit of the Codes on Takeovers and Mergers and Share Repurchases issued by the Commission, act together with another adviser (to the client) not subject to this condition.
- ❖ The licensee shall not provide advice concerning compliance with or in

respect of rules made by the Stock Exchange of Hong Kong Limited or the Commission under section 23 or 36 of the Securities and Futures Ordinance governing the listing of securities.

**For Type 9 regulated activity:**

- ❖ The licensee shall not provide a service of managing a portfolio of futures contracts/securities (whichever applicable) for another person.
- ❖ The licensee shall not provide a service of managing a portfolio of futures contracts for another person unless it is for hedging purpose only.
- ❖ The licensee shall only provide services to professional investors. The term "professional investor" is as defined in Part 1 of Schedule 1 to the Securities and Futures Ordinance.

- ❖ The licensee shall not conduct business involving the discretionary management of any collective investment scheme. The term "collective investment scheme" is as defined under the Securities and Futures Ordinance.
  
- ❖ The licensee shall not conduct business involving the discretionary management of any collective investment scheme for persons other than professional investors. The terms "collective investment scheme" and "professional investor" are as defined under the Securities and Futures Ordinance.

The above list is not exhaustive and specific licensing conditions imposed (if any) on the applicant's licence would depend on the facts and circumstances of each individual case.