

## Regulated activities

What are the types of regulated activities?

Posted on 01.06.2011

1.1 Regulated activities are defined under Schedule 5 to the SFO. They include:-

- ◆ Type 1 : dealing in securities,
- ◆ Type 2 : dealing in futures contracts,
- ◆ Type 3 : leveraged foreign exchange trading,
- ◆ Type 4 : advising on securities,
- ◆ Type 5 : advising on futures contracts,
- ◆ Type 6 : advising on corporate finance,
- ◆ Type 7 : providing automated trading services,
- ◆ Type 8 : securities margin financing,
- ◆ Type 9 : asset management, and
- ◆ Type 10 : providing credit rating services.

Will a person engaging in stock option business be required to apply for a licence to carry on Type 1 or Type 2 regulated activity?

Posted on 17.03.2003

1.2 Type 1.

Will a person licensed for Type 1 regulated activity need to apply for Type 8 regulated activity if it also provides securities margin financing?

Posted on 17.03.2003

1.3 No. A person licensed to carry out Type 1 regulated activity need not apply for Type 8 regulated activity in order to provide securities margin financing.

If a person is licensed for Type 1 and/or Type 2 regulated activities (dealing in securities and/or dealing in futures contracts) and wishes to carry on Type 7 regulated activity (providing automated trading services), is there any waiver of licensing fees and continuous professional training ("CPT") requirements concerning Type 7 regulated activity?

Posted on 24.04.2003

1.4 Yes. If the carrying on, or proposed carrying on of Type 7 regulated activity is incidental to the carrying on of Type 1 and/or Type 2 regulated activities, the application fee, annual fee and CPT hours in respect of Type 7 regulated activity will be waived.

A fund management house may intend to carry out the following functions:-

- providing portfolio management services
- distributing unit trusts
- selling unit trusts
- providing investment advisory services

Does it need to apply for Types 1, 4 and 9 regulated activities?

Posted on 18.06.2003

1.5 The types of regulated activity required by each company depend on its mode of operation and should be considered on a case-by-case basis.

A fund manager providing portfolio management services is required to be licensed for Type 9 regulated activity.

On distributing and selling of unit trusts, where marketing of the unit trusts to potential investors is involved, a licence for Type 1 regulated activity is required as these activities constitute dealing in securities (unit trusts are securities).

As regards to provision of investment advice, a Type 4 licence will not be required if the firm is licensed for Type 1 regulated activity and the advisory activities are wholly incidental to the firm's dealing activities. However, if a firm operates a separate line of investment advisory business for which separate remuneration is received, approval for Type 4 regulated activity may be required. For details relating to the incidental exemption, please refer to Topic 10 – Incidental exemption.

If I am a stockbroker, can I be licensed for Type 1 regulated activity to carry out Type 4, Type 6 and Type 9 regulated activities?

Posted on 17.03.2003

1.6 Yes. As a stockbroker, you are licensed for Type 1 regulated activity and you may also carry out Type 4, Type 6 and Type 9 regulated activities if those latter activities are wholly incidental to your dealing activities as a stockbroker. For details of incidental exemption, please refer to Topic 10 – Incidental exemption.

Does a fund manager licensed for Type 9 regulated activity need to apply for Type 1 or Type 2 regulated activity if it places trading orders with a broker in the course of performing its asset management activities?

Posted on 18.06.2003

1.7 No. Provided that Type 1 or Type 2 regulated activity is pursuant to performing his functions in the management of portfolios of securities or futures contracts for clients, a person licensed for Type 9 regulated activity may arrange for the purchase or sale of securities or futures contracts for his clients' portfolios **through other brokers** who are licensed for Type 1 or Type 2 regulated activity. In such circumstances the fund manager will not be required to be licensed for Type 1 or Type 2 regulated activity.

In addition to Type 1 and/or Type 2 regulated activities (dealing in securities and/or dealing in futures contracts), does a corporation need to be licensed for Type 7 regulated activity (providing automated trading services) if it also provides trading services which merely route the trade orders placed by clients to the Exchanges for execution via electronic means?

Posted on 23.06.2004

1.8 A corporation that provides automated trading services (ATS) as defined in Schedule 5 to the Securities and Futures Ordinance (SFO) may either be authorized to provide ATS under Part III of the SFO or licensed under Part V of the SFO. If the corporation is licensed for Type 1 and/or Type 2 regulated activities and would like to provide ATS, it would also need to be licensed for Type 7 regulated activity.

In general, the provision of order routing services would not be regarded as Type 7 regulated activity. However, the intermediary should ensure that the order routing services or other electronic services that they wish to provide do not meet the definition of ATS (as defined in Schedule 5 to the SFO). If the services do meet the definition, the intermediary would need to be licensed for Type 7 regulated activity. The intermediary wishing to submit an application should read the Guidelines on the Regulation of Automated Trading Services and/or consult their legal advisors before meeting with the SFC.

For transitional arrangements, we would, however, deem all those intermediaries which have indicated to us that they wish to provide ATS to be licensed for Type 7 regulated activity. We will consider whether they need to be so licensed in the migration exercise, in particular whether their operations fall under the definition of ATS in Schedule 5 to the SFO.

If an intermediary or a licence applicant wishes to conduct dealing activities in the form of orders routing

via the Internet, it should complete and submit the "Questionnaire for Intermediaries Providing Trading Services through Electronic Means" to the SFC. The questionnaire is available from the SFC's website under the "Intermediaries, Licensing & Investment Products" - "Forms, Questionnaires and Proforma documents" column.

If an intermediary licensed or registered for Type 1 regulated activity (dealing in securities) provides an on-line facility for its clients to register for monthly subscription plans of authorized collective investment schemes on the Internet, is this intermediary required to also be licensed or registered for Type 7 regulated activity (providing automated trading services)?

Through this on-line registration service, a subscription will be effected and purchase money will be debited from the client's bank account on the pre-agreed subscription day of each month. No purchase transaction takes place at the time when the client registers for a subscription plan.

What if the on-line facility allows the intermediary's clients to place orders of regular subscriptions to, and redemptions of, authorized collective investment schemes?

Posted on 24.12.2003

1.9 The SFC's view is that an intermediary which is licensed or registered to carry out Type 1 regulated activity needs not be licensed or registered for Type 7 regulated activity in order to provide an on-line facility that simply allows its clients to register for monthly subscription plans of authorized collective investment schemes. Likewise, the provision of an on-line facility that simply allows clients to transmit regular subscription and redemption orders will not necessitate the intermediary concerned to be licensed or registered for Type 7 regulated activity. In our views, such on-line facilities only serve as an electronic communication channel for the purpose of relaying clients' trade orders to the intermediary.

However, if an intermediary conducts securities dealing activities in the form of orders routing via the Internet, it should:

- (1) inform the SFC's Licensing Department in writing and provide relevant information which includes a business plan, a description of the computer system, a description of the account opening procedures and information on the experience and qualification of the responsible staff in charge of the Internet services;

- (2) prepare a demonstration to the SFC of the business operations via the Internet when ready;  
and
- (3) notify the SFC in writing the effective date of launching Internet services and the address of the website.

If a licensed or registered intermediary intends to launch a corporate website to provide stock quotes, account status and financial commentaries to clients, is it required to submit any application for approval to the SFC?

Posted on 23.06.2004

1.10 No. However, it should complete and submit the relevant part(s) (sections 11 & 17) of Form 5 (Notification - Licensed Corporation, Registered Institution, Licensed Representative and Substantial Shareholder) to notify the SFC of the proposed change in business scope and any new website address.

Do we need to be licensed for Type 1 regulated activity (dealing in securities) or Type 4 regulated activity (advising on securities) if we only advise clients on securities investments and/or issue securities research reports to subscribers?

Posted on 10.03.2004

1.11 To be licensed for Type 4 regulated activity is appropriate in this case. Generally speaking, Type 1 regulated activity will be required if the activities concerned include execution of securities dealing transactions by the intermediary on behalf of clients and/or distribution of securities such as unit trusts and mutual funds. For fund managers licensed for Type 9 regulated activity (asset management), please also refer to Questions 10.4 and 10.6 under the topic – Incidental exemption.