



# S&F (Contract Notes, Statements of Account & Receipts) Rules

The Rules have drawn on sections 75, 75A and 121Z of the Securities Ordinance, section 45A of the Commodities Trading Ordinance and section 4 of the Leveraged Foreign Exchange Trading (Books, Contract Notes and Conduct of Business) Rules, the Code of Conduct for Persons Registered with the Securities and Futures Commission and the Fund Manager Code of Conduct.

They ensure that clients receive timely and meaningful information.





# S&F (Contract Notes, Statements of Account & Receipts) Rules

The Rules have the following facilitative features:

- a) allowance for consolidated contract notes and statements of account in view of the single licence regime;
- b) allowance for average pricing for reporting in contract notes dealing in securities and futures contracts; and
- c) extension of the time for providing a contract note to a client from one to two business days.

	Intermediary		Associated Entity (AE)	
	Current Req'm	Under these Rules	Current Req'm	These Rules
<i>Contract Note</i>	<u>Any dealers &amp; traders:</u> s75, SO; s45A, CTO; s4, LEFT COB Rules.	<u>Any intermediary:</u> where it enters into a relevant contract with or on behalf of a client <u>except in relation to the conduct of asset management</u>		X
<i>Daily Statement of Account</i>	<u>Securities margin financing &amp; LFE trading:</u> s75A & 121Z, SO; LFET COB Rules.	<u>Financial accommodation &amp; margined transaction:</u> Defined terms under s1, Part 1, Schedule 1, SFO & within the Rules  ( <u>asset management exemption above applies</u> )		X
<i>Monthly Statement of Account</i>	<u>Any registered &amp; licensed intermediaries:</u> s75A & 121Z, SO; LFET COB Rules; Code of Conduct.	<u>Any intermediary except in relation to the management of a CIS</u>	X	X
<i>Receipt</i>	<u>AOR in respect of receipt of securities by securities dealers:</u> S83(3)(b), SO.	<u>Any intermediary:</u> where it receives any client assets <u>except in relation to money received by a registered institution</u>	X	✓



# S&F (Contract Notes, Statements of Account & Receipts) Rules

## Relevant Contract means

- a contract for a dealing in securities or futures contracts in the conduct of any regulated activity for which the intermediary is licensed or registered; or
- a leveraged foreign exchange contract in the conduct of the regulated activity of leveraged foreign exchange trading for which the intermediary is licensed.

## It must also be a contract entered into

- in Hong Kong; and
- with or on behalf of a client of the intermediary.



# S&F (Contract Notes, Statements of Account & Receipts) Rules

## Margined Transaction means

- a relevant contract;
- requiring the client to pay margin to the intermediary or provide security to the intermediary to meet the client's obligations; and
- that is not an arrangement where financial accommodation is provided to the client by the intermediary.



## S&F (Contract Notes, Statements of Account & Receipts) Rules

### Triggers / Content Requirements:

- Contract Note : where a relevant contract is entered into / generic content requirements in s5(3) whereas additional specific requirements for securities, futures and leveraged foreign exchange contracts set out in s5(4),(5) and (6) respectively (allowed, but not obliged, to show average instead of actual unit prices at the request of the client)



# S&F (Contract Notes, Statements of Account & Receipts) Rules

## Triggers / Content Requirements (cont'd) :

- Daily Statement of Account : (in the case of provision of financial accommodation) where there is a deposit or withdrawal of client assets, adjustment to the account except for accrual of interest, or a disposal of client securities and collateral that is initiated by the intermediary, or (in the case of margined transactions) where a margined transaction is entered into or closed / generic content requirements in s7 whereas additional specific requirements for financial accommodation and margined transactions set out in s8(2) and 9(2) respectively



# S&F (Contract Notes, Statements of Account & Receipts) Rules

## Triggers / Content Requirements (cont'd):

- Monthly Statement of Account : at any time during the period,
  - (a) any contract note, daily statement of account or receipt is required to be provided to the client under the Rules;
  - (b) the client has an account balance that is not nil;
  - (c) any client securities and collateral or any security provided in relation to a margined transaction are held for the account; or
  - (d) the client has an open position as at the end of the period.

Generic content requirements in s7 whereas additional specific requirements for asset management and all other regulated activities set out in s11(5) and 11(3) respectively.



## S&F (Contract Notes, Statements of Account & Receipts) Rules

### Triggers / Content Requirements (cont'd):

- Receipt : subject to exceptions in s13(2), where an intermediary or an associated entity receives any client assets or security provided in relation to a margined transaction.

Content requirements for such receipts set out in s13(3).



# S&F (Contract Notes, Statements of Account & Receipts) Rules

## Triggers / Content Requirements (cont'd):

- Receipts: the triggers however do not apply in the following circumstances-
  - (a) client money received by a registered institution or an AFI-associated entity;
  - (b) direct deposit into the bank account of a licensed corporation or a non-AFI associated entity other than by the intermediary or associated entity;
  - (c) direct deposit with the scrip custodian who has issued a receipt;
  - (d) transfer of securities in a scripless form to the account of an intermediary or an associated entity with a custodian;
  - (e) the contract note/ daily statement of account provided the client contains the requisite particulars and a statement that it also serves as a receipt.



# S&F (Contract Notes, Statements of Account & Receipts) Rules

## Consolidated Documents:

- S6 provide that an intermediary may consolidate one or more requisite contract notes with any daily statement of account (which could be a consolidated statement for both financial accommodation and margined transactions by virtue of s10) that is required to be provided in respect of the same day.



# S&F (Contract Notes, Statements of Account & Receipts) Rules

## Deadlines:

- *Contract Note*: within 2 business days after entering into the relevant contract
- *Daily Statement of Account*: within 2 business days after the triggering event takes place or where applicable, the intermediary becoming aware that the event has taken place
- *Monthly Statement of Account*: 10 business days for asset management, and 7 business days for all other regulated activities after the end of the monthly accounting period (selected by the intermediary)
- *Receipt*: within 2 business days after receiving the client asset/security



## S&F (Contract Notes, Statements of Account & Receipts) Rules

With a view to alleviating the compliance burden on intermediaries without compromising investor protection, the Rules provide certain exemptions for:

- a) dealings with clients who are professional investors;
- b) avoidance of duplicative documents being sent to clients.



# S&F (Contract Notes, Statements of Account & Receipts) Rules

## Professional Investor (PI) Exemption:

- 2 categories of PI
  - A. Types specified in paragraphs (a) to (i) of the definition of PI in Schedule 1 of the SFO (e.g. any intermediary carrying on the business of the provision of investment services and regulated under the law of any place outside Hong Kong – paragraph (b))
  - B. Types prescribed by PI Rules (e.g. high net worth individuals and corporations)
- Different conditions apply
  - A. In respect of the former category, sufficient to rely on the absence of any objection from the client to whom a written waiver notice has been given
  - B. Affirmative written consent for any waivers is required for the latter



# S&F (Contract Notes, Statements of Account & Receipts) Rules

## Avoidance of Duplication:

- A. Where each of 2 intermediaries has entered into a relevant contract for a dealing in securities or futures contracts with or on behalf of a mutual client – either one could be exempted from providing the contract note or statement of account if the other has agreed in writing to do so in accordance with these Rules
- B. Where a related corporation in the UK or the US of an intermediary that is either a regulated financial or investment services provider or a bank is providing the contract note, etc under the applicable law in that jurisdiction – the intermediary is exempted from providing the contract note, etc under these Rules



## S&F (Contract Notes, Statements of Account & Receipts) Rules

Section 12 of the Rules prescribes that an intermediary shall prepare and provide to a client a statement in respect of the client's account as of the date of the request:

- *upon request of the client*
- *as soon as practicable* after the date of the request



# S&F (Contract Notes, Statements of Account & Receipts) Rules

## Retention periods (s16)

- Monthly statement of account – 7 years
- All others – 2 years

## Service of documents (s17)

- Written designation by a client is required if another person is authorised to receive the documents on the client's behalf
- Designation of an officer or employee of the intermediary is not allowed



# S&F (Contract Notes, Statements of Account & Receipts) Rules

## Duty to report non-compliance (s18)

- Within one business day after becoming aware of any non-compliance of the Rules
- Give written notice to the SFC

## Penalties for contravention (s19)

- Without reasonable excuse – fine at level 4
- With intent to defraud – \$500,000 fine and 1 year imprisonment on summary conviction
  - \$1,000,000 and 7 year imprisonment on conviction on indictment