

# Transitional Arrangements

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**Licensing Department**

**23 January 2003**

# Agenda

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- Deemed licence/registration
- Transitional arrangements for deemed licensee
- Migration application
- **Prepare now!**



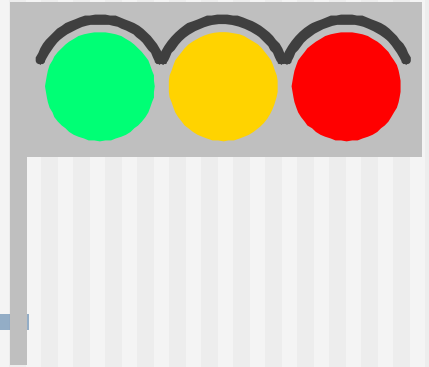
# Transitional period

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- Schedule 10 to the SFO
- Current registered or exempt persons are **deemed** to be licensed or registered to carry on certain regulated activity(ies) during

**2-year transitional period**

- Target to commence on 1<sup>st</sup> April 2003



# Transitional period

- During these 2 years, deemed licensees may continue carrying on the business which they are allowed to carry on under the current regime.
- They must apply for new licences or registrations **before** this period expires.

# Regulated activity

## Schedule 5 to the SFO

- 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

# Deemed licence or registration

Current Regime	New Regime
Registered Corp	<b>Deemed</b> Licensed Corp
Exempt Person (non-AI)	<b>Deemed</b> Licensed Corp
<ul style="list-style-type: none"> <li>■ Exempt Person (AI)</li> <li>■ Licensed Bank giving investment advice</li> </ul>	<b>Deemed</b> Registered Institution
<ul style="list-style-type: none"> <li>■ Registered Rep</li> <li>■ Individual engaged by non-AI exempt person</li> </ul>	<b>Deemed</b> Licensed Rep
Supervisory Director	<b>Deemed</b> Licensed Rep <b>and</b> approved as Responsible Officer

# Deemed regulated activities

Registration Type	Type of regulated activity								
	1	2	3	4	5	6	7	8	9
Securities Dealer & Rep Non-AI Exempt Dealer & Rep	✓			✓		✓	*		✓
Commodity Dealer & Rep		✓			✓		*		✓
Leveraged FX Trader & Rep			✓						
Investment Adviser & Rep Non-AI Exempt IA & Rep				✓		✓			✓
Commodity Trader Adviser & Rep					✓				✓
Securities Margin Financier & Rep								✓	
Exempt Dealer	✓			✓		✓	*		✓
Exempt Investment Adviser				✓		✓			✓
Licensed Bank giving investment advice				✓		✓			✓

# Deemed regulated activities

- If a dealer currently provides automated trading services, it will be deemed licensed/registered for Type 7 regulated activity.



# Conditions on deemed licence/registration

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- Conditions on current registration/exemption are applicable to your deemed licence/registration.

*e.g. You shall not handle client assets.*

# Conditions on deemed licence/registration

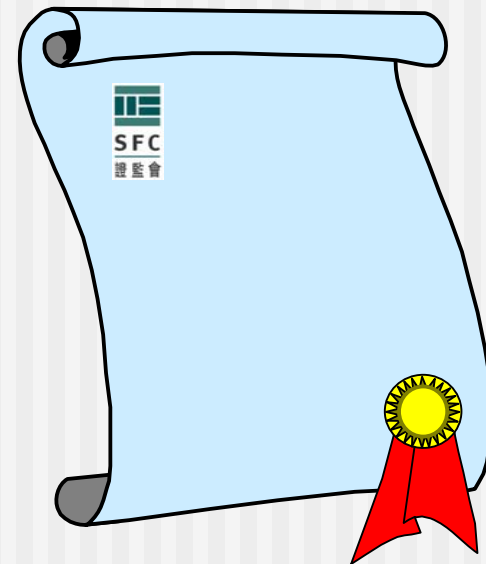
- If there is a condition restricting you from carrying on a regulated activity, you will not be deemed licensed/registered for that regulated activity.



*e.g. You shall not engage in corporate finance advisory activities.*

# Licence or Certificate of registration

- **No licence or certificate of registration** issued to deemed licensed person/deemed registered institution.
- **Return** old licence/certificate when you apply for new licence or cease business.
- **Licence/registration status** of each licensee shown in the SFC's public register.



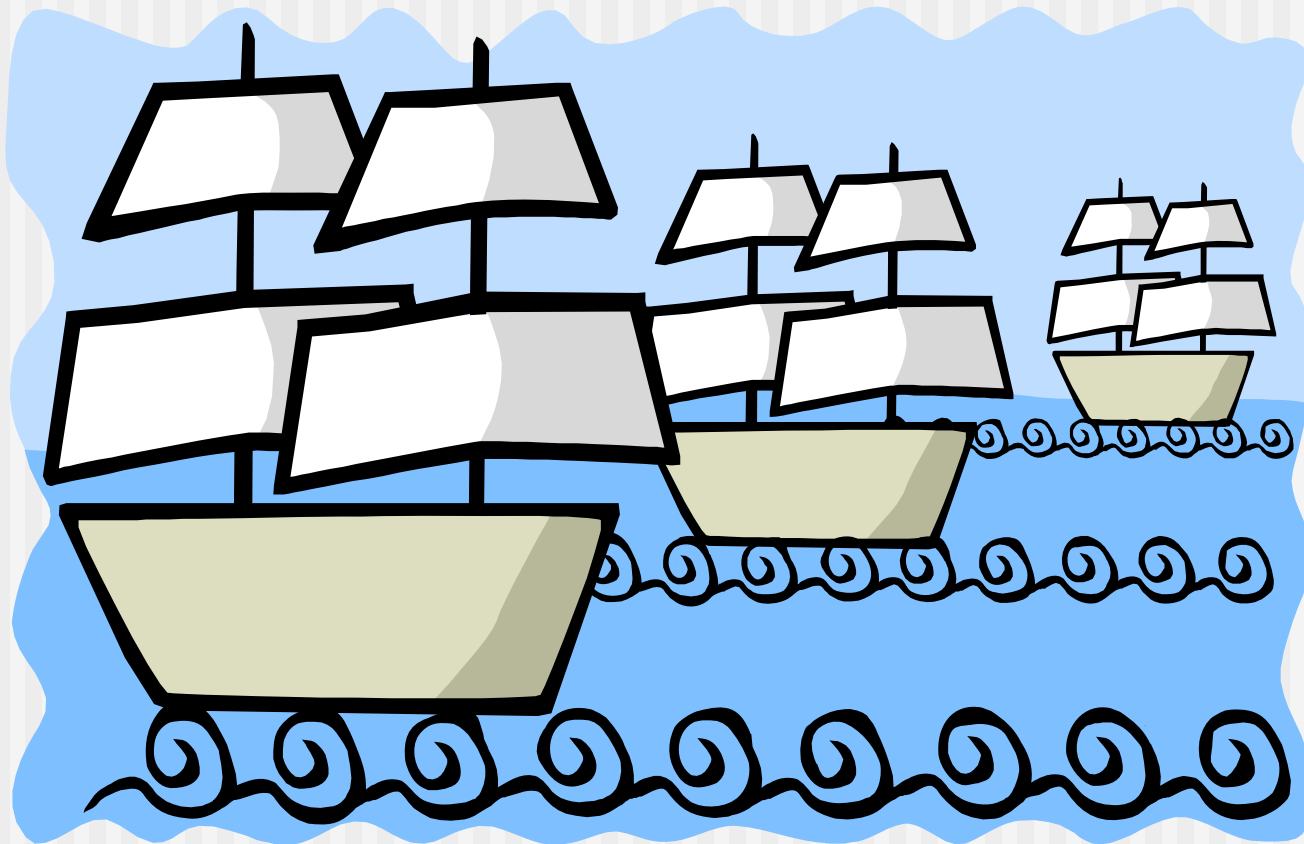
# Public register

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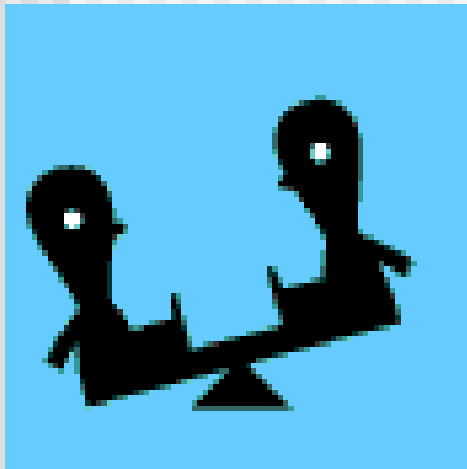
- In the SFC's website [www.hksfc.org.hk](http://www.hksfc.org.hk)
- Public register contains:
  - Licence details (incl. types of regulated activity)
  - Responsible officers and Reps
  - Complaints officer's contact information
  - Disciplinary history by SFC

# Transitional arrangements



# Responsible Officer

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- During transitional period, these requirements do not apply to deemed licensed corporations:
  - EDs appointed as ROs
  - Not less than 2 ROs for each RA; at least 1 must be an ED

# Substantial shareholder

## Existing substantial shareholder

- No need to apply for approval when SFO commences

## New substantial shareholder under SFO

- Deemed licensed corporations (other than non-AI exempt persons): need to apply for prior approval
- Not applicable to non-AI exempt persons while they are deemed licensed during the transitional period.

## Application under SFO

Fee: \$3,000

Filing: Form 4 – Miscellaneous Applications



# Record keeping premises



- **Applies to all licensed corporations**

## Existing record keeping premises

- No need to apply for approval when SFO commences

## New record keeping premises

- All licensed corporations need to apply for prior approval under SFO

## Application under SFO

Fee: \$1,000

Filing: Form 4 – Miscellaneous Applications

# Annual submission



- All deemed licensed corporations need to pay **annual fee** and submit **annual return** within 1 month after its licence anniversary date or a specified date.
- **Applicable to non-AI exempt persons too!**
- Registered institutions pay annual fee only.

# Specified date for annual submission

- During the transitional period, the specified date for a deemed licensee

= Old registration's anniversary date  
or  
Common Anniversary Date (CAD)



- If you have more than 1 registration/exemption, it will be the earliest anniversary date after the SFO commences.

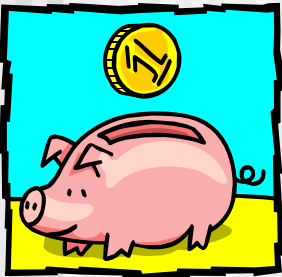
# Specified date for annual submission

Example	Specified Date
Securities Dealer	20 August
Investment Adviser	5 October
Deemed Licence	20 August

# Annual fee

- For deemed RA: -

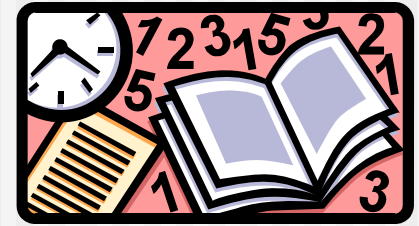
Annual Fee = No. of registration/exemption  
(deemed RA) x new annual fee



\* 5% discount if applies in 1st year

- For new RA: -

Annual fee = No. of new RA  
(new RA) x new annual fee



# Audited accounts

Submit audited accounts within **4 months** after financial year end date if

- **licensed corporations** (including advisers and non-AI exempt persons)
- **associated entities** of licensed corporations and registered institutions
- **not applicable** to registered institutions

# Competence



- **No basic change** to current requirements
- Deemed individuals **do not need** to take exam for carrying on deemed RA
- **New examinations** based on each type of RA
- **New entrants** must satisfy the competence examination requirements

# Competence



- Deemed licensed individuals need to sit exam only if they: -
  - Apply for **new** RA
    - > Sit papers for that RA
  - Apply to **upgrade** from Rep to be RO
    - > Sit papers for RO of that RA

# Competence



## Example

**David** is an investment representative. Under SFO, he is a deemed licensed rep for RA 4,6,9.

Unlike new applicants, he does not need to take any exam required for RA 4,6,9.

# Continuous Professional Training (CPT)



- For deemed RA: -

CPT hours = No. of registration/exemption  
(deemed RA) x 5 hours

CPT hours remain the same during transitional period, **before or after** you obtain a new licence.

- For new RA: -

CPT hours = No. of new RA x 5 hours  
(new RA)

# Continuous Professional Training (CPT)

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## Example 1

**John** is a dealer's representative and an investment representative. During the 2-year transitional period, he is deemed licensed for Type 1, 4, 6 and 9 regulated activities. Nevertheless, he only requires:

5 hours x 2 registrations = 10 CPT hours

# Continuous Professional Training (CPT)



## Example 2

**John** does not drop any deemed RA when he applies for a new licence.

*After the transitional period*, he requires:

$$5 \text{ hours} \times 4 \text{ RAs} = 20 \text{ CPT hours}$$

# Migration application



# Simple application form

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- **Simple** migration application forms
- Forms (corp + individual) will be mailed to Licensed Corp or RI together with annual submission reminder. Can also be downloaded from the SFC's website.
- Types
  - Form 1(x) – Licensed Corporation
  - Form 2(x) – Registered Institution
  - Form 3(x) – Licensed Individual

# Easy application process

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- **One stop application** for corp and individual at the same time
- **No** application fee for deemed RA
- **No** competence exam for deemed RA
- Fee concessions (see Guidelines on Licensing Fees)
- **Shortened** processing time

# Example migration application

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ABC Securities Limited is  
a broker.

# Example migration application

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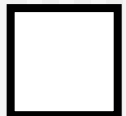
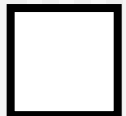
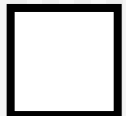
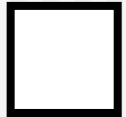
Step 1 - Choose licence type

- Licensed Corporation
- Registered Institution   
(AI only)

# Example migration application

## Step 2 - Choose RA

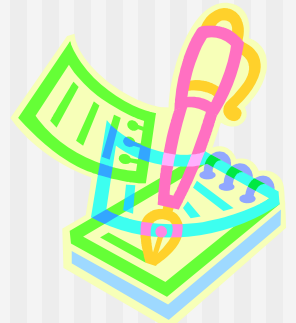
- Type 1 – Dealing in securities
- Type 4 – Advising on securities
- Type 6 – Advising on corporate finance
- Type 7 – Providing ATS
- Type 9 – Asset management



# Example migration application

## Step 3 - Identify 2 Responsible Officers ('RO')

RA	Proposed RO	Deemed RO	Executive Director
1	Mr Chan	Yes	Yes
1	Mr Lee	No	No



# Example migration application

## Step 4 – Representatives



Name	RA	Proposed Principal	Deemed Rep
Mr Chan	1	ABC Securities Ltd	Yes
Mr Chan	2	ABC Futures Ltd	Yes

# Example migration application

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## Step 5 – Submit application forms

- Submit migration applications for Corp, RO and Rep in **one single batch together with annual submission.**
- **No application fee** for deemed RAs
- Apply in  st year to save 5% annual fee for the rest of the transitional period

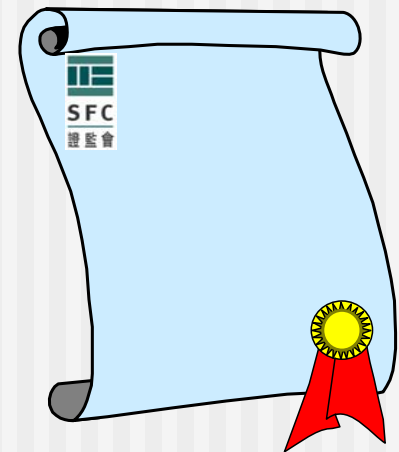
# Tips



- Correct forms + accurate information (principal check individuals' applications)
- Corp and staff apply simultaneously
- Correct fees (for new RA or upgrade)
- Apply for deemed RA first
- Passed competence papers (for new RA or upgrade)

# Application for new activity/capacity

- You need to apply for a new licence: -
  - apply for new regulated activity
  - promote from Rep to RO
  - change of employment



# Transfer of accreditation (Change of employment)

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- **Deemed** licensed individual needs to apply for a new licence with new principal.
- **Licensed** individual only needs to file an application for transfer of accreditation.
- **No need** to pass competence exam for deemed regulated activity or capacity.

# Transfer of accreditation (Change of employment)

- Licensed individual has **180 days** (old regime 60 days) to find new employers.
- For RO, need to seek approval as RO for new employer



# Outstanding applications

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- Outstanding applications under old ordinances will be treated as application for a licence/registration under the new regime.

## Example

An outstanding application for dealer's rep will become an application as a licensed rep under s120 for Type 1, 4, 6 and 9 regulated activities.

# Prepare now!

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# Get ready for a new licence/registration

- **Corporate registrant:** may consider consolidating existing businesses under one corporate entity to save costs
- **Sole proprietor & partnership:** incorporate business before the end of the transitional period
- **Exempt person who is an AFI:** read HKMA circulars and contact them for guidance.
- **Exempt person who is not an AFI:** you and your individuals prepare for applying for licences

# Provide information to the SFC

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- SFC's circular asking you to provide certain information for transitional arrangements e.g.: -
  - associated entities
  - complaints officers
  - emergency contact person
- Subsequent changes must notify the SFC

# Familiarize with SFO and other new requirements

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- ❖ Visit SFC's website for the most updated information on the SFO [www.hksfc.org.hk](http://www.hksfc.org.hk)
- ❖ Subscribe SFC's email alert service
- ❖ Check your FinNet email account





**Thank you**