

SECURITIES AND FUTURES ORDINANCE (Chapter 571)

Pursuant to sections 169 and 399 of the Securities and Futures Ordinance, the Securities and Futures Commission publishes the following amendments to the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (Code of Conduct).

The amendments in Part I shall become effective on 20 March 2023. The amendments in Part II shall become effective on 25 September 2023.

Part I

Add the following paragraph after paragraph 5.5 of the Code of Conduct:—

**“5.6 Investor identification — on-exchange orders and off-exchange trades reportable to SEHK**

- (a) This paragraph applies to a relevant licensed or registered person. The obligations set out in this paragraph do not apply to an order or trade of odd lots of listed securities traded on the odd lot/special lot market of SEHK (save for underlying orders in an executed aggregated order) and transaction(s) reported via SEHK’s trade amendment system.
- (b) For the purposes of this paragraph:
  - (i) “aggregated order” means an order which comprises two or more buy orders and/or sell orders for the same listed security placed by different clients, which may be executed as an on-exchange order or off-exchange order;
  - (ii) “BCAN” means a “Broker-to-Client Assigned Number”, being a unique identification code in the format prescribed by SEHK, generated by a relevant licensed or registered person in accordance with SEHK’s requirements;
  - (iii) “BCAN-CID Mapping File” means the data file containing the BCAN and CID of all clients of a relevant licensed or registered person in the format prescribed by SEHK from time to time;
  - (iv) “CID” means the client identification data as described in paragraph 5.6(n);
  - (v) “direct client” means the most immediate client of a relevant licensed or registered person which has placed or proposes to place an on-exchange order or off-exchange order through a securities trading account with that person;
  - (vi) “client” has the meaning as set out in paragraph 5.6(m);
  - (vii) “listed security” means any security listed or traded on SEHK’s trading system;
  - (viii) “odd lot” means the number of shares of a corporation which is less than one board lot as shown on SEHK’s website;
  - (ix) “odd lot/special lot market” means a market established for the trading of odd lots as described in and pursuant to SEHK’s requirements;
  - (x) “OE Trade Reporting” refers to the reporting of an off-exchange trade directly by an exchange participant to SEHK according to its rules;

- (xi) “on-exchange order” means a buy or sell order for a listed security which is to be executed on the automatic order matching system operated by SEHK;
  - (xii) “off-exchange order” means a buy or sell order for a listed security which is to be executed outside SEHK’s automatic order matching system and the consummation of which would result in an off-exchange trade;
  - (xiii) “off-exchange trade” means a trade of a listed security which takes place outside SEHK’s automatic order matching system but is reportable by exchange participants to SEHK pursuant to its rules;
  - (xiv) “relevant licensed or registered person” means a licensed or registered person which:
    - (1) submits (or arranges to submit) for execution an on-exchange order;
    - (2) carries out an off-exchange order; or
    - (3) conducts OE Trade Reporting, in connection with its carrying out any of the specified activities;
  - (xv) “SEHK” means The Stock Exchange of Hong Kong Limited; and
  - (xvi) “specified activities” means (i) proprietary trading and (ii) the provision of securities brokerage services for a person in respect of orders placed through an account opened and maintained for that person.
- (c) Subject to paragraphs 5.6(d) and 5.6(e), a relevant licensed or registered person is required to:
- (i) assign a BCAN to each of its clients, the BCAN to be linked permanently and exclusively to that client; and
  - (ii) collect CID of each client to whom it has assigned a BCAN pursuant to paragraph 5.6(c)(i) and prepare a BCAN-CID Mapping File for submission to SEHK’s data repository.

Where a client holds more than one securities trading account with a relevant licensed or registered person, a relevant licensed or registered person may assign more than one BCAN to the client to distinguish between orders placed through different accounts. However, orders placed through the same securities trading account must be tagged with the same BCAN.

- (d) Where an on-exchange order or off-exchange order is carried out through an intermediating chain of brokers, the last relevant licensed or registered person in the chain (starting with the exchange participant executing the order and working backwards), whose direct client is not a relevant licensed or registered person, shall be the party responsible for assigning the BCAN, collecting CID, preparing the BCAN-CID Mapping File, and submitting the BCAN-CID Mapping File to SEHK either directly or indirectly through another relevant licensed or registered person.
- (e) Where an on-exchange order or off-exchange order is placed from a securities trading account held jointly by two or more persons, a relevant licensed or registered person is required to assign a BCAN to the account and not to the account holders. This BCAN should be distinct from any BCAN assigned to any joint account holder who holds a securities account with the relevant licensed or registered person in his sole name. The BCAN-CID Mapping File containing the CID of all holders of that joint account should be submitted by the relevant licensed or registered person to SEHK under the BCAN assigned to the joint account.

- (f) A relevant licensed or registered person should ensure that the order information for each (i) on-exchange order which it submits (or arranges to submit) to SEHK, (ii) off-exchange order it carries out either directly or indirectly through another relevant licensed or registered person, and (iii) trade when it conducts OE Trade Reporting, includes the CE number of the licensed or registered person (being the unique identifier assigned by the SFC) as well as (1) a BCAN assigned to the relevant client or joint account or (2) a specific code as prescribed by SEHK in the case of an aggregated order as the case may be.
- (g) Where a relevant licensed or registered person transmits an on-exchange or off-exchange order to another person who is not a licensed or registered person in an intermediating chain of brokers for execution, the relevant licensed or registered person should take reasonable steps (including putting in place arrangements with the receiving person) to ensure that the BCAN (and, in the case of an aggregated order, the specific code prescribed by SEHK) assigned and tagged to the order by the relevant licensed or registered person would be transmitted by the receiving person to the next relevant licensed or registered person in the intermediating chain.
- (h) In the case of an executed aggregated order, a relevant licensed or registered person which submits (or arranges to submit) the order to SEHK or carries out the order should also ensure that the BCAN of each client or joint account to which the underlying orders relate is subsequently submitted to SEHK in accordance with SEHK's requirements either directly or through another relevant licensed or registered person.
- (i) A relevant licensed or registered person should have automated order management systems in place to ensure that clients' BCANs and the specific codes prescribed by SEHK (in the case of an aggregated order) which are tagged to on-exchange orders or off-exchange orders and included in OE Trade Reporting are correct and valid.
- (j) A relevant licensed or registered person which is responsible for collecting CID and preparing the BCAN-CID Mapping File of its clients under paragraph 5.6 should ensure that it submits the BCAN-CID Mapping File to SEHK by the prescribed time and in accordance with SEHK's requirements either directly or through another relevant licensed or registered person.
- (k) A relevant licensed or registered person which is responsible for assigning a BCAN and preparing the BCAN-CID Mapping File should take all reasonable steps to establish that the BCAN and CID which it submits to SEHK are accurate and kept up-to-date. It should notify SEHK in accordance with SEHK's requirements when it becomes aware that any such information has changed, is inaccurate or should otherwise be updated, including where there is a closure of a client account, addition of a new client account, or a change in CID. A relevant licensed or registered person should put in place measures to require clients to notify the relevant licensed or registered person of any updates to their CID.
- (l) A relevant licensed or registered person should comply with all applicable Rules of the Exchange and other requirements prescribed by SEHK in relation to the assignment of BCANs and the submission of BCAN-CID Mapping Files to SEHK, including the notification of any changes, errors or omissions.
- (m) For the purpose of the obligations to be carried out by a relevant licensed or registered person under paragraph 5.6, a "client" means the direct client of the relevant licensed or registered person, save that:

- (i) in the case of proprietary trading by a relevant licensed or registered person, a client refers to the relevant licensed or registered person itself;
  - (ii) in the situation mentioned in paragraph 5.6(d), a client shall be a person to whom a BCAN is assigned for the on-exchange order or off-exchange order;
  - (iii) in the situation mentioned in paragraph 5.6(e), a client refers to each of the holders of the joint securities account; and
  - (iv) in the case of a collective investment scheme or discretionary account, a client refers to a collective investment scheme, discretionary account holder or asset management company, as the case may be, which has opened a trading account with the relevant licensed or registered person, through whose account an on-exchange order or off-exchange order is placed or proposed to be placed.
- (n) For the purpose of paragraph 5.6, CID shall mean the following information in relation to a client to whom a BCAN is assigned:
- (i) the full name of the client as shown in the client's identity document;
  - (ii) the issuing country or jurisdiction of the identity document;
  - (iii) the identity document type; and
  - (iv) the identity document number.
- (o) For the purpose of paragraph 5.6(n), CID of a client should be collected from the identity document which is first mentioned in the list below save that where the client does not hold such document, the next mentioned document should be used and so forth:
- (i) in the case of a natural person, his or her (1) HKID card; or (2) national identification document; or (3) passport;
  - (ii) in the case of a corporation, its (1) legal entity identifier (LEI) registration document; or (2) certificate of incorporation; or (3) certificate of business registration; or (4) other equivalent identity document; and
  - (iii) in the case of a trust, the trustee's information as in paragraph 5.6(o)(i) or (ii) (as the case may be). However in the case of a trust which is an investment fund, CID of the asset management company or the individual fund, as appropriate, which has opened a trading account with the relevant licensed or registered person should be obtained.
- (p) On or before the submission of the BCAN-CID Mapping File in respect of an individual client, a relevant licensed or registered person should have obtained from the client written or other express consent in a form and manner in compliance with the SFC's requirements. A record of consent must be kept by the relevant licensed or registered person for as long as the client remains its client and up to at least two years after the client relationship ceases.
- (q) If the consent referred to in paragraph 5.6(p) cannot be obtained from any client who is a natural person, the relevant licensed or registered person should not submit any BCAN or CID of that client to SEHK and should only effect sell orders or trades in respect of existing holdings of a listed security (but not buy orders or trades) for that client."

## Part II

Add the following paragraph after paragraph 5.6 of the Code of Conduct:—

### **“5.7 Reporting of OTC securities transactions**

- (a) Expressions appearing in paragraph 5.7 bear the same meanings as defined in paragraph 5.6(b), save that, for purposes of paragraph 5.7:
  - (i) the definition of “client” does not include paragraph 5.6(m)(ii);
  - (ii) IRD means the Inland Revenue Department of Hong Kong;
  - (iii) “OTC Securities Transaction” means a transaction involving shares which is not conducted by an on-exchange order or reportable as an off-exchange trade within the scope of paragraph 5.6 in respect of which stamp duty is chargeable in Hong Kong and the transaction is not granted stamp duty relief (whether in full or in part) from the IRD;
  - (iv) “relevant licensed or registered person” means a licensed or registered person who carries out any of the “specified activities” as defined in paragraph 5.6(b);
  - (v) “relevant transfer” means a transfer of shares in connection with an OTC Securities Transaction; and
  - (vi) “shares” means the ordinary shares of a company, or units of a REIT, listed on SEHK.
- (b) Subject to paragraphs 5.7(c) and 5.7(d), when a relevant licensed or registered person, whether as principal or agent for a client, makes a relevant transfer, it is required to report the following information to the SFC within three Hong Kong trading days after the day (in Hong Kong time) of the transfer:
  - (i) the CE number and role of the relevant licensed or registered person making the transfer, for example, whether it is the transferee, transferor, or acting as agent for the transferee or transferor (or both);
  - (ii) a description of the transfer (including the stock name and stock code of the share(s) transferred, quantity of share(s) transferred by the relevant licensed or registered person, quantity of share(s) of the transaction, share transfer date, transaction price per share and transaction date);
  - (iii) where the transferee is a client of the relevant licensed or registered person, CID of the transferee;
  - (iv) where the transferor is a client of the relevant licensed or registered person, CID of the transferor; and
  - (v) where the counterparty corporation to the relevant licensed or registered person in the transfer is also a licensed or registered person, the CE number of that counterparty corporation.
- (c) A relevant licensed or registered person is not required to comply with the reporting obligations under paragraph 5.7(b) where a transfer of share(s) is made in accordance with the terms of a structured product or a derivative, or for the conversion of a depository receipt into shares or vice versa.
- (d) Where an application for a stamp duty relief has been or will be submitted to the IRD but the relief has not yet been granted, a relevant licensed or registered person

would not be required to report the transfer of shares pending the IRD's determination. However, if the IRD subsequently determines that no stamp duty relief (whether in full or in part) would be granted, the relevant licensed or registered person should report the share transfer as soon as practicable after being notified of the IRD's determination.

- (e) When a relevant licensed or registered person, whether as principal or agent for a client, deposits or withdraws a physical share certificate, the relevant licensed or registered person is required to report the following information to the SFC within three Hong Kong trading days after the day (in Hong Kong time) of the deposit or withdrawal:
  - (i) the CE number of the relevant licensed or registered person, whether it is a deposit or withdrawal of a physical share certificate, and whether it is acting as principal or agent;
  - (ii) a description of the deposit or withdrawal of share certificate (including the stock name and code, quantity of share(s) and deposit or withdrawal date); and
  - (iii) CID of the client of the relevant licensed or registered person.
- (f) Regardless of whether a relevant licensed or registered person has already submitted CID for the client (in the form of a BCAN-CID Mapping File) pursuant to paragraph 5.6, the relevant licensed or registered person needs to provide the client's CID in the reporting made under paragraph 5.7(b) or 5.7(e).
- (g) A relevant licensed or registered person should ensure that all information including CID it submits to the SFC is accurate and kept up-to-date. It should notify the SFC if it becomes aware that any such information is inaccurate or should otherwise be updated. It should also put in place measures to require clients to notify it of any updates to their CID.
- (h) On or before reporting information to the SFC in accordance with paragraph 5.7(b) or 5.7(e), and where the information relates to a client who is an individual, the relevant licensed or registered person shall have obtained from the client written or other express consent in form and manner in compliance with the SFC's requirements. A record of consent must be kept by the relevant licensed or registered person for as long as the client remains its client and up to at least two years after the client relationship ceases.
- (i) If the consent under paragraph 5.7(h) cannot be obtained from a client, the relevant licensed or registered person should not submit any CID of that client to the SFC. It should only effect transfers of shares out of and withdrawals of physical share certificates from that client's account, but not transfers of shares or deposits of physical share certificates into that client's account."