

CONSULTATIVE DOCUMENT
ON THE
REVIEW OF LICENSING REGIME

Anyone wishing to submit comments on the Review of the Licensing regime should do so no later than 15 January 1991. Submissions should be addressed to :

Securities and Futures Commission
38th Floor, Two Exchange Square
8 Connaught Place
Central
Hong Kong

HONG KONG/NOVEMBER 1990

SECURITIES AND FUTURES COMMISSION

REVIEW OF LICENSING REGIME

Introduction

1. The Securities Review Committee (SRC) recommendation for an urgent thorough review of the principal legislation governing the securities and futures industry is currently being undertaken by the Securities and Futures Commission (the Commission). As part of this study, a comprehensive review of the present system for registering securities and futures intermediaries has been completed. The findings of the review are set out in this document and the Commission welcomes comments from the industry and the general public on its proposals.

(A) Licensing Objectives

2. Licensing⁽¹⁾ of securities and futures intermediaries and advisers occurs in virtually all developed economies and is usually aimed at investor protection and protection of overall market integrity and stability.

(1) In this document, the term 'licence' is used in place of the existing term 'registration' as the Commission believes it more accurately reflects the changes to the current regime introduced by the SFC Ordinance in 1989.

3. The first objective, i.e. investor protection, represents the original rationale for intervention in Hong Kong in the 1970s, when the existing regulatory regime was first introduced, and justifies the imposition of detailed entry and prudential requirements on intermediaries that deal with the public. This was considered particularly important in the light of the IOS scandal and the stock market rise and fall in the early 1970s. The underlying philosophy is that in the securities and futures markets, the public deals with intermediaries and advisers in respect of their savings, which makes errors or defalcations issues of significant public concern. The decision to depart from the basic philosophy of caveat emptor reflects also the concern that the public is not sufficiently skilled to assess the quality of the services provided.

4. The second objective, i.e. protection of systemic stability, is a more recent policy objective throughout the world and in Hong Kong. This was stressed by the SRC as one of the key criteria for securities regulation in Hong Kong. Imposition of more general requirements and on a wider front is justified on the grounds that de-stabilization of markets have significant adverse effects on the entire financial infrastructure and, thus, the community as a whole.

5. To achieve these objectives, the licensing system aims to ensure that intermediaries are, and are seen to be, financially sound and maintain high professional standards. As licensing confers standing and imparts confidence to the market and to the investor that intermediaries will perform their duties efficiently, honestly and fairly and will offer them a fair deal, thereby encouraging investors to deal with them, the integrity of the licensing system has to be beyond reproach.

6. Rigorous pursuit of these policy objectives could, however, result in a set of extremely stringent licensing conditions, making the Hong Kong market unattractive for intermediaries. This militates against the objective of making Hong Kong the premier regional market. When considering the structure of the local licensing regime and the obligations that are imposed on intermediaries that operate within it, the need to protect the investor and the market has, therefore, to be balanced against the need to create a favourable environment which allows the financial market in Hong Kong to flourish.

7. Other important factors that have to be borne in mind when designing the appropriate licensing regime are the need to ensure that the system is simple and flexible, but fairly predictable, and that the regulatory cost to the market is justified.

8. Thus, the ideal licensing regime for Hong Kong is a system which is basically simple and fairly predictable, but remaining flexible to take account of changing circumstances, which affords an appropriate degree of protection to both the investor and the market, taking into account the cost/benefits of regulation and the need not to stifle free enterprise.

(B) Legal Authority

9. The authority for the present licensing regime is in the Securities Ordinance, the Commodities Trading Ordinance and the Securities and Futures Ordinance, including subsidiary legislation made under these Ordinances. These provide for the licensing of intermediaries who participate in the securities and futures markets in Hong Kong and impose a range of on-going obligations on licensed intermediaries. The regime is backed up by investigatory, intervention and disciplinary powers given to the Commission over licensed intermediaries.

(C) Regulatory System

10. Generally speaking, any person who carries on, or holds himself out as carrying on, a business of dealing in securities, trading in commodities futures contracts, investment advising or futures trading advising in Hong Kong must be licensed by the Commission. In addition, anyone who performs such functions on behalf of the above classes of persons must also be licensed.

11. The key triggers for the licensing requirements, and the consequential supervisory requirements, are in the definitions of the terms 'dealing in securities', 'trading in commodities futures contracts', 'investment adviser' and 'commodities trading adviser'. These are deliberately cast very wide in the relevant legislation so as to catch the full range of activities undertaken by intermediaries within the industry. However, the decision to cast the net wide resulted in a number of classes of persons who do not fall within the licensing objectives being caught within the licensing requirement. Thus, the legislation provides for a range of exclusions and exemptions from the requirement. Examples of these classes of persons are, trading by the investor himself, as a principal, hereinafter referred to as 'investors trading', accountants and solicitors who "deal in securities" in the course of their professions, banks rendering investment advice, trustee companies and financial journalists.

12. Moreover, because the policy objective underlying the existing licensing system was for investor protection, trading between persons whose business involves the buying and selling of securities, or, who deal only in the wholesale markets, hereinafter referred to as 'professionals trading', which pose little or no risk to the investing public are also excluded from the licensing net.

13. Anyone who triggers the licensing requirements who do not fall within any of these exclusions or exemptions must be licensed by the Commission before they can operate within the securities or futures markets. To become licensed, an intermediary is required to pass certain tests:

- (a) for the business itself, it has to meet the fit and proper test under section 23 of the SFC Ordinance; and,
 - (i) if it is a securities dealer, it has also to meet a basic capital requirement; or
 - (ii) if it is a commodities dealer, it has to be a member of a recognized exchange;
- (b) for natural persons operating the businesses, they have to meet the fit and proper test.

14. Upon being licensed, intermediaries are required to respect certain continuing requirements. These are principally aimed at ensuring that they continue to remain 'fit and proper' persons and are in sound financial health. Apart from the financial resources rules applicable to securities dealers, these requirements normally take the form of reporting obligations to provide the Commission with the necessary information to monitor their respective positions. With minor exceptions, such as segregation of client funds and assets, provision of contract notes etc., the legislation does not currently provide for the regulation of their business conduct or their relations with clients. A breakdown of these requirements by class is at Appendix 1.

15. To back up the regulatory authority over licensed intermediaries, a range of investigative powers, such as the power to audit and inspect, supported by certain disciplinary powers, including the power to reprimand, to suspend or revoke licences, are made available to the Commission. There are certain procedural requirements to be met before disciplinary powers can be exercised and affected intermediaries are provided with an appeals channel against the decisions of the Commission.

Criticisms of the Existing System

16. The existing system has been criticized in a number of respects:
- (a) structure - the SRC, while basically endorsing the two-tiered structure, suggested that not all the natural persons falling within the second tier need to be registered. It recommended that, provided there are powers to act directly against controllers, directors and managers, separate registration of such persons should not be required. The SRC, however, recommended that separate registration for representatives should continue. (See 10.36 to 10.39 of the SRC Report.)

- (b) definitions - the existing definitions of the terms 'dealing in securities' and 'dealing in commodities trading', which are the cornerstones of the registration system, are at best unclear and possibly inherently defective. Two recent court cases in the futures area have helped to highlight the inadequacies in the existing definition in that respect. Particular problems have also arisen as regards the need for intermediaries promoting insurance-linked investment products and immigration schemes to become registered. The situation is further complicated by the ambiguities, particularly the coverage of the 'professionals' exemption, in the exclusion section [S. 3(1)(a)] of the Securities Ordinance. This leaves intermediaries unsure as regards the precise ambit of the registration requirement.
- (c) classification - the industry has repeatedly complained that the distinction between the definitions of the terms 'dealer' and 'adviser' is unclear and has led to unnecessary dual registration requirements. For this reason, the SRC recommended that the present distinction between dealers and advisers should be removed unless materially different entry standards and/or on-going prudential requirements should be imposed on them. (See paras 10.40 to 10.41 of the SRC Report.)
- (d) coverage - the industry has also complained that the existing registration coverage in respect of representatives is unclear. They indicated that they are unsure as regards what functions of a dealer/adviser are covered within the definition of "representatives" and therefore the range of personnel that needs to be registered.
- (e) obligations - a number of practical difficulties have arisen as regards the range of obligations currently imposed on registered persons, both in relation to initial entry requirements, such as the problem posed to certain overseas intermediaries by the need for at least one director to be registered, and on-going requirements, such as the problems posed by the practical constraints imposed by the trust accounts requirements in S. 81 of the Securities Ordinance, because of the inherent rigidity in these requirements.

The Review

17. In the light of the criticisms, a comprehensive review of the existing system was undertaken by the Licensing Department during the period November 1989 to August 1990.
18. In the course of the review, due account has been taken of the various SRC recommendations that are relevant to the licensing regime (a list of these SRC recommendations is at Appendix 2) and, where applicable, these have been used as the starting premise for considering whether a departure from the existing regime is called for.
19. No attempt has, however, been made in the review to examine the powers of investigation and intervention over licensed intermediaries since the majority of these powers were only recently revamped under the SFC Ordinance.
20. In addition, a number of aspects of the existing regime, i.e. the exemption policy under S. 60/61 of the Securities Ordinance, the development of a code of conduct on best business practices, the capital requirements and financial resources rules applicable to securities dealers and the respective Compensation Funds are the subject of separate reviews. These have, therefore, not been re-examined during the review.
21. The main findings of the review, in the form of a comprehensive proposal for a new structure for the licensing regime, are set out in the following sections.

Assumptions

22. Before setting out the proposed new structure, it is necessary to highlight the underlying assumptions that govern the proposals for the new structure. These are:

- (a) Regulatory Objectives - the basic regulatory objectives in the securities and futures markets will remain the same, i.e. that the system is aimed at providing an appropriate degree of protection for investors and markets;
- (b) Definitions - the basic ambit of regulation of securities and futures dealings in Hong Kong, ie the definitions in respect of such terms as "securities", "commodity", and "futures contracts" and what would be regarded as "dealing in securities" or "trading in commodity futures contracts", are being dealt with separately under the Legislative Review exercise conducted by the Commission's Adviser on Securities Legislation;
- (c) Review of Financial Resources Rules - the current review of the financial resources rules will be completed by the time the proposed new structure is introduced so that a flexible approach to the present capital requirements would be available to complement the changes to the classification system in the proposed structure;
- (d) Review of the Compensation Funds - a review of the Compensation Funds will be completed in conjunction with the Legislative Review and that consequential changes arising from acceptance of the recommendations in this review, in particular the question of whether advisers who handle client funds should be made subject to the deposit requirement and thus be covered under the Funds, will be taken into account in the course of its work; and
- (e) Development of Business Conduct Rules - the work on Business Conduct Rules, as recommended by the SRC, is being undertaken separately.

A Proposed New Structure

(i) General Framework

23. Essentially, the concept of licensing intermediaries before they are allowed to participate in the securities and futures markets should remain the cornerstone of the regulatory framework in Hong Kong. To achieve this, the basic requirement of subjecting anyone who deals in or renders advice on securities or futures contracts as a business to licensing should be retained.

(ii) Ambit of Licensing Requirement

24. To avoid the need for frequent amendments to the scope of the licensing requirements, the present approach of casting the initial net wide should also be retained. As a consequence, however, certain exceptions from this wide net would have to be provided for.

25. The criteria for such exceptions should centre around the policy objectives for licensing intermediaries, i.e. investor protection and protection of systemic stability. Those who do not carry on dealing or advising activities as a business, for example the investor himself, and those who carry on dealing or advising activities which do not impinge on the investing public at large or the market generally, for example the accountants and lawyers, and the professional traders, could be excluded ab initio. Those who are not so excluded whose dealing or advising activities are essentially peripheral to their main line of businesses, particularly those which are subject to adequate regulation by another regulator, may continue to be exempted if their particular circumstances merited exclusion.

26. Specifically, the existing exemptions in respect of trading by the investors himself, solicitors and accountants (where the dealing or advising business is wholly incidental to the practice of their professions), licensed banks, trustee companies and financial journalists (from authorization as advisers) and members of the Chinese Gold and Silver Exchange should also remain. Moreover, the existing exemption in respect of trading by professional traders, particularly at the wholesale level, should be retained.

27. To avoid a complete hiatus in the insurance industry and to minimize the degree of supervisory over-lap with the Insurance Authority, insurance salesmen, agents and brokers who promote insurance-linked investment products which require Commission approval should be regulated within an appropriate insurance regulatory framework.

28. Finally, a power enabling the Commission to waive the licensing requirement, in whole or in part, in respect of particular persons, for example intermediaries whose business only involves handling overseas orders routed through Hong Kong, and a power to introduce a system to facilitate licensing intermediaries on short visits to Hong Kong, should be available.

(iii) Structure

29. As the nature of the risks in the securities and futures sectors are very different, a single licence which enables intermediaries to operate generally within the securities and futures industry would be inappropriate. The existing separate prudential supervision regimes for these two sectors should be retained.

30. The categories of licences within each sector should also reflect the nature and degree of risk that different types of intermediaries pose to the investor or the market and should enable the Commission to impose different ranges of prudential requirements on the different categories of licenced intermediaries to capture the different risks. The existing distinction between 'dealers' and 'advisers', as currently defined, does not facilitate this approach and should be abandoned.

31. However, as the nature of the activities, and hence the risks posed to the investor and the market by different intermediaries, are quite distinct, separate categories of intermediaries would continue to be required to facilitate imposition of different entry requirements and on-going obligations. In line with this, the system should continue to provide for separate categories of licences and the SRC recommendation to abolish the distinction between 'dealers' and 'advisers' and to have one category of licence should, therefore, be rejected.

(iv) Classifications

32. As regards the categories that should be created, dealers, investment managers responsible for portfolio management, other than those who would benefit from the professionals exemption, and advisers who handle client funds pose risks which are essentially akin and should be subject to similar obligations to address them. They should thus be treated within the one category. To avoid the need for dual licences, a person licensed under this category should generally be allowed to perform all the functions of an adviser. As the group is sufficiently close in function to the existing dealer category, this group could retain the existing dealer nomenclature.

33. Advisers who only render advice for a fee or sell investment products but who do not manage client funds or handle client money pose different types of risks from the above group and should be dealt with separately under a different group. As their functions are essentially investment advising, this group could retain the adviser nomenclature.

34. As the distinction between a 'dealer' and an 'adviser' would essentially turn on whether the intermediary manages and/or handles client funds, which is a question of fact, the proposed classification system should provide greater certainty to intermediaries.

(v) Classes of Licencees

35. Consistent with the approach to categorization, the distinction between the different classes of persons within these categories, i.e. the principals and representatives, should also be drawn along broad lines which reflect different risk exposures. Here, the distinction is between the business entity and the natural persons operating the businesses and separate classes of licences should be provided for the business entity and the operating officers. To ensure that a proper regulatory handle is maintained over the persons operating the businesses, separate licences for businesses and natural persons should remain.

36. Moreover, the existing licensing requirement for persons who perform functions on behalf of dealers and advisers should also be retained to ensure that only fit and proper persons are allowed to deal with the investing public on behalf of dealers/advisers. In addition, consideration has also been given to reinforcing the concept of the business entity being held responsible for the conduct of its licensed representatives introduced in the 'Fit and Proper' Test under Section 23 of the SFC Ordinance by making it a specific statutory requirement. A firm view on whether such an approach is appropriate for the Hong Kong market has not been reached and will be further considered in the Business Conduct Study.

37. The definition of the term 'representatives' is at present unsatisfactory. It should be narrowed to exclude persons who perform purely secretarial, clerical/administrative functions on behalf of the dealer from the requirement. A separate technical study is currently being conducted in an attempt to establish an indicative list of those functions carried out on behalf of dealers which attract a representative licence. This should make the requirement clearer. When completed, this will be issued to the industry in the form of a Licensing Practice Note.

38. Apart from this, the apparent defect in the present definitions and/or licensing triggers in respect of representatives should be remedied to ensure that, as with agents for sole proprietors, agents of corporations and partnerships would also attract the licensing requirement. Finally, the present ban on corporations acting as representatives of authorized intermediaries in the Securities Ordinance should be extended to the futures sector.

39. In essence, therefore, the new structure would continue to distinguish between the securities and futures sectors, with each sector having two categories of licences: the first for "dealers" and the second for "advisers who do not handle client funds". Within these categories, there would be two distinct classes of licensed persons: principals (essentially the business entity) and representatives (essentially the natural persons operating the businesses).

(vi) Changes to Conditions of Licenses

40. The present distinction between persons with different management functions within a business, i.e. the requirement for directors to be licensed as dealers in their own right and for other officers to be licensed as representatives, should be simplified by removing the present "middle tier" of dealing and accredited directors. All directors who actively participate in the corporations' dealing/advising business should in future be required to be authorized as representatives, albeit with a higher experience/educational entry requirement. In consequence, the existing bar against directors acting as representatives of other businesses should be removed.

41. The system should be further simplified by removing the linkage between the licences of the natural persons operating the businesses with employment by a specified entity. However, to enable the Commission to ensure that the change in employment does not erode its perception of the person's fitness and to enable the Commission to monitor the whereabouts of licensed persons, intermediaries should be required to inform the Commission of any change in employment. Moreover, the Commission should have the power to object if it is of the view that such a change is not consistent with on-going fitness, for example, if the change in employment involves a significant increase in responsibility in respect of which the intermediary does not have the necessary experience and qualifications. Licences would thus entitle them generally to operate within the industry in Hong Kong.

42. With the removal of the linkage between the licences of the natural persons and employment by a specified licensed business entity, the business entities should be obliged to ensure that all new representatives are properly licensed and to notify the Commission of any newly employed representative who already possess a licence and all cessations of employment of representatives within fourteen days. Moreover, to ensure that all registered businesses have the necessary experience/ qualifications to be operated in a responsible manner, they should be required to have at all times at least one registered representative (the so-called "dealing officer" or "advising officer" as the case may be) who can satisfy the Commission's higher experience/educational standards currently applied to dealers/advisers.

43. A licensed representative should be allowed to work for more than one business entity subject to the usual notification requirement. The Commission should, however, be empowered to refuse the additional accreditation if it is not satisfied that adequate safeguards are available to ensure that conflicts of interest do not arise and that the investor is able to clearly identify the business entity with whom he is dealing.

(vii) Entry Requirements

44. The entry requirements should generally reflect the risk intermediaries pose to the investor or the market. For this reason, different requirements or standards should be imposed on different classes of persons depending on the nature of their operations and the type of functions performed. This calls for a fairly flexible set of initial entry requirements and the Commission should have the power to vary these to reflect individual circumstances and in cases of genuine practical difficulties. The 'fit and proper' test in S.23 of the SFC Ordinance provides such flexibility and has worked well in general. It should be retained as the basic entry test.

45. The initial capital requirement on securities dealers is an essential protection for the investor and the market and should be retained. This should be extended to commodity dealers. Appropriate capital requirements are currently subject to a separate study. Different classes of dealers are likely to have different capital requirements. In view of the different risks posed, a capital requirement would not, however, be necessary for advisers who do not handle client funds. This latter group should only be subject to a general solvency requirement.

46. The existing requirement for a commodity dealer to be a member of a specified exchange should be retained, subject to a review of the list of Specified Exchanges in the Second Schedule to the Commodities Trading Ordinance. As prudential supervision in most Exchanges relates directly to members who trade on the Exchange (but not necessarily to shareholders who are dormant or do not trade), the requirement should relate to membership and not shareholding. Moreover, the existing exemption for wholly-owned subsidiaries of an Exchange member should be removed to ensure that the trading activities of the business entity actually being licensed are also directly supervised by an appropriate Exchange.

47. As a decision by the Commission to refuse to grant an authorization is tantamount to a denial of a person's right to a livelihood within the profession, the existing safeguards of due process and right of appeal to the Appeals Tribunal in the rejection process should be retained. In the light of the consultation exercise on the review of the exemption policy, the right of appeal in S.19 of the SFC Ordinance should be extended to officers of exempt institutions who are subject to the Commission's ex post facto power of objection on fit and proper grounds.

(viii) On-going Obligations

48. As regards on-going obligations, the basic rationale for their imposition should be first to prevent erosion of the integrity of the licensing system by ensuring that licensed intermediaries remain fit and second to enable the Commission to monitor the activities of authorized intermediaries to ensure that any threat to the system can be detected at an early stage.

49. To achieve this, the fact that the initial 'fit and proper' test continuing obligations should be made clear in the legislation. Anyone who fails to remain 'fit and proper' after being licensed should not be allowed to retain his licence.

50. As a general principle, however, it is fair to start from the premise that once a person is regarded as fit, this judgement should not be assailed unless a substantive change in circumstance occurs or is discovered. The burden of proving a person as no longer 'fit and proper' in disciplinary cases should therefore remain with the Commission.

51. As a person's fitness should not be impugned purely through a change of employment, unless that change involves a substantive change to his responsibility which casts a doubt on his continued fitness to remain licensed, for example his competence to perform a higher responsibility, the current linkage between a person's licence with the business entity could be repealed without eroding the efficacy of the licensing system.

52. To enable the Commission to monitor on-going fitness, including financial fitness, licensed business entities should generally be obliged to submit annual accounts and to report changes in circumstances material to the entry requirements or the 'fit and proper' test to the Commission on a timely basis.

53. The existing reporting requirements to notify the Commission of changes to any information provided in connection with his licence application in respect of licensed dealers/advisers should, therefore, be extended to licensed representatives. They should, however, only be required to report changes in material circumstances affecting their own positions.

54. Moreover, as a direct consequence of the removal of the linkage between a representative's licence and the business entity to whom he works, a separate reporting requirement to notify any changes in employee/employment to the Commission should be introduced. The obligation should be imposed on both the employer and the employee to ensure that the records are complete, particularly in case the employee leaves the industry for a period and to serve as a double check.

55. In addition to the ability to monitor on-going fitness, a range of prudential requirements should be imposed to afford a degree of protection to the investor and the market. In respect of dealers, these should include a capital requirement supported by a flexible set of financial resources rules, accounting and annual auditing requirements. For advisers, a capital requirement would not appear necessary, although a basic solvency requirement would seem reasonable. The other on-going requirements relate mainly to rules governing business conduct and, apart from those essential ones which are currently enshrined in the legislation, such as segregation of client assets and funds, should be in the form of Codes of Conduct.

56. In view of the significant workload involved and the minimal regulatory value in the existing requirement on securities dealers to maintain a register of securities in S. 67 of the Securities Ordinance, the section should be repealed and replaced by safeguards within the Codes of Conduct.

(ix) Disciplinary Powers

57. Any regulatory system needs enforcement powers to be effective. Generally speaking, the existing range of enforcement and disciplinary powers available to the Commission appears to be adequate. However, as there is a natural reluctance to resort to the nuclear deterrent of revoking the licence of the entire business to back up minor breaches, particularly as such action tend to have negative implications for the investor and the market when used, it needs to be complemented. This is particularly so in respect of 'offences' which are technical in nature, for example, late filing of accounts, returns etc, and do not justify formal disciplinary action or the public costs of resorting to the Court system except in the case of repeated or flagrant breaches.

58. An additional factor that should be borne in mind is that formal disciplinary actions against a licensed intermediary tend to remain on the records and could have an impact on the ability of the intermediary to gain overseas licensing should they have a need to do so. Effort should, therefore, be made to avoid "blotting their records" unless this is necessary. There is thus a need to augment the existing powers with a penalty system, which does not carry the same stigma in respect of an intermediaries fitness to conduct a business as a reprimand or a suspension/revocation of his licence.

59. A complement of a penalty system for technical breaches; reprimands for more serious breaches or for first offences; suspensions for breaches which require immediate rectification before the intermediary may continue to perform his functions properly; and revocations for major breaches should therefore be made available to the Commission.

60. The current power to suspend or revoke an authorization under S. 55 of the Securities Ordinance should, however, be amended to include failure to provide information likely to affect the method of conducting business as are prescribed under the relevant legislation as a possible ground for revocation/suspension of a licence. Moreover, under circumstances similar to those applicable to individuals and corporations, the power of revocation/suspension under the section should be extended to partnerships. Furthermore, identical powers should be available in respect of commodity dealers and advisers.

(x) Appeals

61. As disciplinary actions could have the effect of denying a person of his right to a livelihood within the industry, there is a need to protect the rights of the affected individual and to ensure that such decisions are taken properly. The normal system of due process and right of appeal should, therefore, apply to all disciplinary actions taken by the Commission. As a result of the consultation exercise on exempt policy, the right of appeal should also be made available to exempt institutions which have their exempt status revoked by the Commission.

Consultation

62. The Commission welcomes views on the current licensing regime and the findings of the Review. Comments should be addressed to the Securities and Futures Commission, 32/F Alexandra House, Chater Road, Central, Hong Kong and should reach the Commission before 15 January 1991.

Securities and Futures Commission

November 12, 1990

BREAKDOWN OF STATUTORY OBLIGATION BY CLASS

Class of Applicant	Fit & Proper (S27) (S27)	Location of Annual Returns (S24) (S24)	Financial Records (S65B) (S65B)	Deposits (S62.31) (S62.31)	Report of Changes (S63.41) (S63.41)	Registers of Securities (S67) (S67)	Book-keeping (S63.45) (S63.45)	Trust A/C (S64.46) (S64.46)	Client Scripts (S81) (S81)	Appointment Auditor (S87.49) (S87.49)	Loose Accounts (S88.50) (S88.50)	Offer Documents (S72) (S72)	Cold-calling Prohibition (S73) (S73)	Hawking Prohibition (S74.40A) (S74.40A)	Contract Notes (S75.45A) (S75.45A)	Redemption Prohibition (S76) (S76)	Disclosure on Request (S77.45B) (S77.45B)	Provide Information to Clients (S77.45B) (S77.45B)	
																			X
SECURITIES																			
Dealer	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Dealer's Representative	X																		
Investment Adviser	X	X																	
Investment Representative	X																		

COMMODITIES

Dealer	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Dealer's Representative	X																		
Trading Adviser	X	X																	
Trading Adviser's Representative	X																		

0 CHANGE OF EMPLOYMENT ONLY

SRC Recommendations and Comments Relevant to Licensing

1. The SEHK Articles should be amended to withdraw the right to vote in Council elections from members whose trading licence has been suspended (para. 4.61).
2. The regulatory agency should promptly suspend the licences of registered securities intermediaries who have ceased to trade (para. 4.61).
3. There is no need for any specific action to reduce the number of SEHK members (para. 4.88).
4. The SEHK should take immediate steps to implement a training and examination system for members (para. 4.89).
5. In time, passage through an examination system (to be introduced) should become a qualification for licensing as a securities dealer by the regulatory authority (para. 4.89).
6. Dealers/advisers should have to demonstrate to the satisfaction of the SC that they are fit and proper to conduct a securities business in Hong Kong. They should be subject to a general requirement to conduct their business prudently and adopt good business practices (para. 10.18).
7. The new SC should be empowered to revoke an authorisation which is not being used (para. 10.19).
8. Provided the supervisory system is adequate, an intermediary should remain authorised until its authorisation is surrendered or revoked (para. 10.22).
9. Hong Kong should move from a system of annual registration to a system of continuous licensing but that an annual fee should continue to be levied (para. 10.25).

10. Licences should be granted to the business entity - company, sole trader or partnership - as this is the financial unit with whom other dealers and investors trade (para. 10.26).
11. It would be preferable for all firms who are registered on a specified day to be deemed to have been granted a permanent licence. This would be without prejudice to the SC's power to revoke (para. 10.27).
12. Meanwhile, the OCS should actively weed out firms which are not fit to be registered/licensed or do not need a licence or registered status (para. 10.27).
13. There should not be a programme of relicensing intermediaries upon the introduction of an upgraded licensing system (para. 10.28).
14. Exempt status should be abolished and that, to the extent a firm conducts a securities business, it should be licensed, required to meet the appropriate standards on an on-going basis and supervised to ensure it meets those requirements (para. 10.31).
15. It might be necessary to amend the definition of securities business to ensure that the statute only catches those types of business that were intended to be caught (para. 10.32).
16. Provision could also be made for secondary legislation to be introduced to exempt a class of institution or type of transaction (para. 10.33).
17. In order for the new SC to grant a licence to a securities business, it should have to be satisfied that all directors, controllers and managers are fit and proper persons to hold their particular positions (para. 10.36).
18. It would be necessary for information on controllers, directors and managers to be provided to the licensing authority. Changes should be notified to the authority, possibly beforehand and subject to prior approval in the case of prospective controlling shareholders. The new SC would also need powers to act directly against controllers, directors and managers (para. 10.37).

19. Separate registration of directors, controllers and managers of investment dealers and advisers should not be required (para. 10.38).
20. The system of requiring trading and advisory representatives to obtain authorisation should continue (para. 10.39).
21. The new SC and the Administration should review whether separate licences are necessary for dealers and advisers (or for any other groups) (para. 10.41).