

L.N. 216 of 2002**SECURITIES AND FUTURES (MISCELLANEOUS) RULES**

(Made by the Securities and Futures Commission under section 397(1)
of the Securities and Futures Ordinance (Cap. 571))

1. Commencement

These Rules shall come into operation on the day appointed for the commencement of the Securities and Futures Ordinance (Cap. 571).

2. Service of documents on Commission

(1) Except as otherwise provided in the Ordinance, where any document is required for the purposes of any provision of the Ordinance to be served (however described) on the Commission, it shall—

(a) in the case of a document other than in electronic form, be—

(i) delivered by hand;

(ii) sent by post; or

(iii) sent by facsimile transmission to such facsimile number as may be specified by the Commission on the contact details page of the Commission's web site; or

(b) in the case of a document in electronic form, be—

(i) sent by means of such electronic transmission as may be approved by the Commission; or

(ii) sent by electronic mail transmission, to such electronic reception facility as may be specified by the Commission on the contact details page of the Commission's web site.

(2) Except as otherwise provided in the Ordinance, where any document is required for the purposes of any provision of the Ordinance to be served (however described) on the Commission—

(a) in the case of a document in respect of which a form has been specified under section 402 of the Ordinance, it shall, subject to subsection (3), be signed, executed and authenticated in the manner specified in such directions and instructions as are included in the form; or

(b) in the case of a document in respect of which no form has been specified under section 402 of the Ordinance, it shall, subject to subsection (3), be signed, executed and authenticated by the person by whom the document is served or by such other person as is authorized by the first-mentioned person to act in that behalf.

(3) For the purposes of subsection (2), if a document is in electronic form, the signature shall, unless otherwise specified by the Commission, be in the form of a digital signature within the meaning of section 2(1) of the Electronic Transactions Ordinance (Cap. 553) that fulfils the requirements of section 6(1) of that Ordinance.

(4) On an application by any person to the Commission, the Commission may, where it is satisfied that an applicant has substantial practical difficulties in serving (however described) any document within the time provided under the Ordinance, in its discretion by notice in writing extend the time for such period and upon such terms as it may direct.

3. Licence or certificate of registration to be exhibited

(1) Subject to subsection (2), an intermediary shall exhibit its licence or certificate of registration (as the case may be) in a prominent place at its principal place of business and, if it has more than one place of business, a certified copy of such licence or certificate of registration (as the case may be) in lieu of its original copy shall be exhibited in a prominent place at each of its other places of business.

(2) At any time when the original copy of the licence or certificate of registration (as the case may be) of an intermediary is returned to the Commission for amendment under section 4, the requirement of subsection (1) shall be regarded as having been complied with if the intermediary exhibits a certified copy of such licence or certificate of registration (as the case may be) in lieu of its original copy until the original copy of its licence or certificate of registration (as the case may be) as amended is returned to it by the Commission.

4. Return of licence or certificate of registration

(1) If an intermediary or licensed representative ceases to carry on all or any of the regulated activities for which he is licensed or registered for a period exceeding—

- (a) subject to paragraph (b), one month after the date of such cessation; or
- (b) such longer period as the Commission may approve in writing, he shall return his licence or certificate of registration (as the case may be) to the Commission for cancellation or amendment (as the case may be) —
- (c) in the case of paragraph (a), within 37 days after the date of the cessation; or
- (d) in the case of paragraph (b), within 7 days after the end of the longer period referred to in that paragraph.

(2) If any regulated activity specified in the licence or certificate of registration (as the case may be) of an intermediary or licensed representative is varied under section 127 of the Ordinance, the intermediary or licensed representative shall return the licence or certificate of registration (as the case may be) to the Commission for amendment within 7 business days after the regulated activity is so varied.

(3) Where it appears to the Commission that an error exists in a licence or certificate of registration, it may by notice in writing require any person whom it reasonably believes to be in possession of the licence or certificate of registration (as the case may be) to return it to the Commission and the person shall return the licence or certificate of registration (as the case may be) to the Commission for amendment within 7 business days after the date of the notice.

5. Persons prescribed as auditors for purposes of section 179 of Ordinance

(1) For the purposes of the definition of “auditor” in section 1 of Part 1 of Schedule 1 to the Ordinance, the following persons are prescribed as within the meaning of that definition for the purposes of section 179 of the Ordinance—

- (a) a professional accountant registered and holding a practising certificate under the Professional Accountants Ordinance (Cap. 50) who provides, or provided, services to a relevant corporation;
- (b) any practice unit within the meaning of the Professional Accountants Ordinance (Cap. 50) that provides, or provided, services to a relevant corporation;
- (c) a person appointed (whether or not he remains so appointed) to be an auditor of a relevant corporation for the purposes of any enactment of a place outside Hong Kong which imposes on such person responsibilities comparable to those imposed on an auditor by the Companies Ordinance (Cap. 32).

(2) In subsection (1), “relevant corporation” (相關法團) means a corporation to which any direction has been or may be given under section 179(1)(i) or (ii) of the Ordinance.

Andrew Len Tao SHENG
Chairman,
Securities and Futures Commission

9 December 2002

Explanatory Note

These Rules are made by the Securities and Futures Commission under section 397(1) of the Securities and Futures Ordinance (Cap. 571). They prescribe the general requirements for documents that are required to be served on the Commission (including the manner of service and execution) (section 2). They require the display of licences or certificates of registration (section 3). The Rules further prescribe the circumstances under which licences or certificates of registration need to be returned to the Commission for cancellation or amendment (section 4). They also prescribe, for the purposes of the definition of “auditor” in section 1 of Part 1 of Schedule 1 to the Ordinance, certain persons as within the meaning of that definition for the purposes of section 179 of the Ordinance (section 5).