

1. Introduction of the Consultation Document

Please advise when does an investment adviser need to comply with the new Rules? Are they on the commencement date of the Rules or upon the date the investment adviser being registered as a licensed corporation under the new licensing regime.

However, under Section 62 of the draft Rules, subject to sub-section (2), the draft Rules do not apply to exempt dealer and exempt investment adviser. Owing to the change of calculation criteria from net tangible assets to liquid capital and capital requirement, investment advisers may have to inject necessary capital and enhance IT systems to automate liquid capital computation. This cannot start until the Rules become effective and the exact requirements become available. It may take months to finish.

Would you please allow a grace period of 12 months for investment adviser and asset manager to comply with the Rules from the commencement date of the Rules?

2. Section 5 - Paid-up Share Capital Requirement for Licensed Corporations

Please advise whether paid-up share capital covers paid-up redeemable shares and premium paid for such shares?

3. Division 3 - Ranking Liabilities

Division 3 does not have any provision for clients assets (equities, bonds, unit trusts and others) held by an asset manager in separated accounts with local or overseas custodians on clients' behalf. Based on this, we interpret that such client assets do not fall within Division 2 - Liquid Assets and Division 3 - Ranking Liabilities of the draft Rules.

The same interpretation applies to client assets held by an asset manager on client's behalf in a capacity outside the regulated activities (e.g. being a trustee of a particular trust).

Further, it is also our interpretation that, money due to/from clients/trustees in respect of redemption/subscription of unit trusts do not fall within Division 2 - Liquid Assets and Division 3 - Ranking Liabilities of the draft Rules in computing the liquid capital of a dealer dealing in unit trusts.

Could you please advise the above interpretations are correct?

4. Section 37(a) (ii) - Miscellaneous

For asset management service billed on a quarterly basis, client may take a longer time to check and settle a bill. A bill overdue for 2 weeks ceasing to be a liquid asset under this section, is relatively short for asset manager.

Would you please extend the time from 2 weeks to 2 months?

5. Section 52 - Foreign Exchange Agreements

Being an asset manager, it does enter into foreign exchange agreements with counterparties to hedge portfolio of assets held on behalf of clients. The value of such foreign exchange agreements may be significant. If such clients assets fall outside Division 2 and Division 3 of the Rules as stated in point 3 above, the foreign exchange agreements to hedge such assets shall also fall outside this section.

Could you please advise the above interpretation is correct?

6. Section 55(1)(c) - Miscellaneous Financial Adjustments

Please advise whether share premium (redeemable) paid on issuance of redeemable shares falls within the ranking liabilities under this section?

7. Section 57(2)(a), (4)(a) and (5)(a) - Licensed Corporations to Notify Commission of Circumstances Relating to Finance Resources and Trading Activities

Please advise whether licensed corporation need to report the financial commitments even if there is no sign that the beneficiary is going to draw down such commitment?

Please also advise whether a back-to-back financial commitment given to a third party at the client's request and secured by client's asset in the portfolio held by an asset manager subject to disclosure under Section 57(2)(a)?

If clients' assets held by an asset manager in a capacity falling outside the regulated activities (e.g. as a trustee of a particular trust), do the assets due to the clients subject to disclosure under subsection 57(4)(a) and (5)(a) as both assets and liabilities are off-balance sheet.

We would be grateful if you would clarify the above enquiries.