

L.N. 56 of 2023

**Securities and Futures (Financial Resources)
(Amendment) Rules 2023**

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Securities and Futures (Financial Resources) (Amendment) Rules 2023

(Made by the Securities and Futures Commission under section 145 of the Securities and Futures Ordinance (Cap. 571) after consultation with the Financial Secretary)

1. Commencement

These Rules come into operation on 2 October 2024.

2. Securities and Futures (Financial Resources) Rules amended

The Securities and Futures (Financial Resources) Rules (Cap. 571 sub. leg. N) are amended as set out in sections 3 to 10.

3. Section 2 amended (interpretation)

(1) Section 2(1), definition of *adjusted liabilities*, after paragraph (a)—

Add

- “(ab) any amount of scheme money held by a licensed corporation licensed for Type 13 regulated activity in—
- (i) a segregated account in accordance with the Securities and Futures (Client Money) Rules (Cap. 571 sub. leg. I);
 - (ii) to the extent not covered in subparagraph (i), a segregated account with an authorized financial institution; or
 - (iii) a segregated account with a bank incorporated outside Hong Kong;
- (ac) any amount held by a licensed corporation licensed for Type 13 regulated activity on behalf of—

- (i) subscribers or scheme participants of a relevant CIS constituting subscription proceeds in respect of the relevant CIS;
- (ii) unit holders, shareholders or scheme participants of a relevant CIS constituting redemption proceeds in respect of the relevant CIS; or
- (iii) unit holders, shareholders or scheme participants of a relevant CIS constituting distribution proceeds in respect of the relevant CIS,

in an account which is separate from its own account and designated for holding such proceeds maintained with an authorized financial institution, a bank incorporated outside Hong Kong or a person approved by the Commission under section 4(2) or 10B(2) of the Securities and Futures (Client Money) Rules (Cap. 571 sub. leg. I) for the purposes of those Rules;”.

- (2) Section 2(1), definition of *basic amount*, paragraph (b), before “the aggregate”—

Add

“other than a licensed corporation licensed for Type 13 regulated activity in relation to the carrying on by it of Type 13 regulated activity,”.

- (3) Section 2(1), definition of *basic amount*, paragraph (c), before “the aggregate”—

Add

“other than a licensed corporation licensed for Type 13 regulated activity in relation to the carrying on by it of Type 13 regulated activity,”.

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- (4) Section 2(1), definition of *excluded liabilities*—
Repeal
“means amounts payable to clients in respect of—”
Substitute
“means—
(a) amounts payable to clients in respect of—”.
- (5) Section 2(1), definition of *excluded liabilities*—
Repeal
“(a) client”
Substitute
“(i) client”.
- (6) Section 2(1), definition of *excluded liabilities*—
Repeal
“(b) client”
Substitute
“(ii) client”.
- (7) Section 2(1), definition of *excluded liabilities*, paragraph (a)(ii)—
Repeal
“paragraph (a)”
Substitute
“subparagraph (i)”.
- (8) Section 2(1), definition of *excluded liabilities*, paragraph (a)(ii)—
Repeal
“institution; and”

Substitute

“institution;”.

- (9) Section 2(1), definition of *excluded liabilities*—

Repeal

“(c) client”

Substitute

“(iii) client”.

- (10) Section 2(1), definition of *excluded liabilities*, after paragraph (a)—

Add

- “(b) any amount of scheme money held by a licensed corporation licensed for Type 13 regulated activity in—
- (i) a segregated account in accordance with the Securities and Futures (Client Money) Rules (Cap. 571 sub. leg. I); or
 - (ii) a segregated account with a bank incorporated outside Hong Kong and, to the extent not covered in subparagraph (i), a segregated account with an authorized financial institution; and
- (c) any amount held by a licensed corporation licensed for Type 13 regulated activity on behalf of—
- (i) subscribers or scheme participants of a relevant CIS constituting subscription proceeds in respect of the relevant CIS;
 - (ii) unit holders, shareholders or scheme participants of a relevant CIS constituting redemption proceeds in respect of the relevant CIS; or

- (iii) unit holders, shareholders or scheme participants of a relevant CIS constituting distribution proceeds in respect of the relevant CIS,

in an account which is separate from its own account and designated for holding such proceeds maintained with an authorized financial institution, a bank incorporated outside Hong Kong or a person approved by the Commission under section 4(2) or 10B(2) of the Securities and Futures (Client Money) Rules (Cap. 571 sub. leg. I) for the purposes of those Rules;”.

- (11) Section 2(1), definition of *segregated account*—

Repeal paragraphs (a) and (b)

Substitute

- “(a) is a segregated account within the meaning of section 2 of the Securities and Futures (Client Money) Rules (Cap. 571 sub. leg. I);
- (b) is an account for holding client money which is separate from its own account; or
- (c) in the case of a licensed corporation licensed for Type 13 regulated activity in relation to the carrying on by it of Type 13 regulated activity, is an account for holding scheme money which is separate from its own account;”.

- (12) Section 2(1)—

Add in alphabetical order

“*relevant CIS* (相關集體投資計劃) has the meaning given by Part 2 of Schedule 5 to the Ordinance;

relevant CIS property (相關集體投資計劃財產) has the meaning given by Part 2 of Schedule 5 to the Ordinance;

scheme money (計劃款項), in relation to a licensed corporation licensed for Type 13 regulated activity, means any client money—

- (a) received or held by the licensed corporation in the course of the conduct of Type 13 regulated activity; or
- (b) received or held by any corporation which is in a controlling entity relationship with the licensed corporation, in relation to such conduct of Type 13 regulated activity,

that constitutes relevant CIS property in respect of a relevant CIS, and includes any accretions to it whether as capital or income;”.

4. Section 20 amended (cash in hand and at bank)

- (1) Section 20—

Renumber the section as section 20(1).

- (2) Section 20(1)—

Repeal

“A”

Substitute

“Other than a licensed corporation licensed for Type 13 regulated activity in relation to the carrying on by it of Type 13 regulated activity, a”.

- (3) After section 20(1)—

Add

- “(2) A licensed corporation licensed for Type 13 regulated activity in relation to the carrying on by it of Type 13 regulated activity must include in its liquid assets—
- (a) cash in hand which it beneficially owns;
 - (b) money which it beneficially owns and holds in an account in its name, or in a segregated account, with an authorized financial institution or an approved bank incorporated outside Hong Kong in the form of—
 - (i) a demand deposit; or
 - (ii) a time deposit which will mature in 6 months or less; and
 - (c) interest accrued on any deposit referred to in paragraph (b)(ii).
- (3) A licensed corporation licensed for Type 13 regulated activity must not include in its liquid assets—
- (a) any amount of scheme money held by the licensed corporation—
 - (i) in a segregated account with an authorized financial institution or a bank incorporated outside Hong Kong;
 - (ii) in a segregated account—
 - (A) that is referred to in paragraph (a) of the definition of *segregated account* in section 2(1); and
 - (B) with a person approved by the Commission under section 4(2) or 10B(2) of the Securities and Futures (Client Money) Rules (Cap. 571 sub.

- leg. I) for the purposes of those Rules;
- (iii) in a relevant CIS account within the meaning of section 10A of the Securities and Futures (Client Money) Rules (Cap. 571 sub. leg. I); or
 - (iv) in an account maintained with an authorized financial institution or a bank incorporated outside Hong Kong which is separate from the own account of the licensed corporation; and
- (b) any amount held by the licensed corporation—
- (i) on behalf of subscribers or scheme participants of a relevant CIS constituting subscription proceeds in respect of the relevant CIS;
 - (ii) on behalf of unit holders, shareholders or scheme participants of a relevant CIS constituting redemption proceeds in respect of the relevant CIS; or
 - (iii) on behalf of unit holders, shareholders or scheme participants of a relevant CIS constituting distribution proceeds in respect of the relevant CIS,
- in an account which is separate from its own account and designated for holding such proceeds maintained with an authorized financial institution, a bank incorporated outside Hong Kong or a person approved by the Commission under section 4(2) or 10B(2) of the Securities and Futures (Client Money) Rules

(Cap. 571 sub. leg. I) for the purposes of those Rules.”.

5. Section 21 amended (amounts receivable from clients in respect of purchase of and subscription for securities)

After section 21(8)—

Add

“(9) This section does not apply to a licensed corporation licensed for Type 13 regulated activity in relation to the carrying on by it of Type 13 regulated activity.”.

6. Section 30 amended (amounts receivable from clients in respect of purchase of exchange-traded unlisted options contracts)

(1) Section 30—

Renumber the section as section 30(1).

(2) After section 30(1)—

Add

“(2) This section does not apply to a licensed corporation licensed for Type 13 regulated activity in relation to the carrying on by it of Type 13 regulated activity.”.

7. Section 37 amended (amounts payable to clients, etc.)

(1) Section 37—

Renumber the section as section 37(1).

(2) Section 37(1)(a)(i)—

Repeal

“20(d)”

Substitute

“20(1)(d)”.

(3) After section 37(1)—

Add

“(2) This section does not apply to a licensed corporation licensed for Type 13 regulated activity in relation to the carrying on by it of Type 13 regulated activity.”.

8. Section 37A added

After section 37—

Add

“37A. Scheme money and other proceeds related to relevant CIS

A licensed corporation licensed for Type 13 regulated activity must include in its ranking liabilities—

- (a) any amount of scheme money in respect of a relevant CIS held by the licensed corporation other than an amount of scheme money held by it—
 - (i) in a segregated account with an authorized financial institution or a bank incorporated outside Hong Kong;
 - (ii) in a segregated account—
 - (A) that is referred to in paragraph (a) of the definition of *segregated account* in section 2(1); and
 - (B) with a person approved by the Commission under section 4(2) or 10B(2) of the Securities and Futures (Client Money) Rules (Cap. 571 sub. leg. I) for the purposes of those Rules;

- (iii) in a relevant CIS account within the meaning of section 10A of the Securities and Futures (Client Money) Rules (Cap. 571 sub. leg. I); or
 - (iv) in an account maintained with an authorized financial institution or a bank incorporated outside Hong Kong which is separate from the own account of the licensed corporation;
- (b) any amount held by the licensed corporation—
- (i) on behalf of subscribers or scheme participants of a relevant CIS constituting subscription proceeds in respect of the relevant CIS;
 - (ii) on behalf of unit holders, shareholders or scheme participants of a relevant CIS constituting redemption proceeds in respect of the relevant CIS; or
 - (iii) on behalf of unit holders, shareholders or scheme participants of a relevant CIS constituting distribution proceeds in respect of the relevant CIS,

other than an amount of these proceeds held by the licensed corporation in an account which is separate from its own account and designated for holding such proceeds maintained with an authorized financial institution, a bank incorporated outside Hong Kong or a person approved by the Commission under section 4(2) or 10B(2) of the Securities and Futures (Client Money) Rules (Cap. 571 sub. leg. I) for the purposes of those Rules; and

- (c) any amount payable to any person which arises from the carrying on of Type 13 regulated activity in relation to any obligation incurred solely on behalf of a relevant CIS other than an amount payable without recourse to the assets of the licensed corporation.”.

9. Section 56 amended (licensed corporations to submit returns to Commission)

- (1) Section 56(1)(ia)—

Repeal

“condition,”

Substitute

“condition;”.

- (2) After section 56(1)(ia)—

Add

“(ib) Type 13 regulated activity,”.

- (3) Section 56(1)—

Repeal paragraph (q)

Substitute

“(q) other than a licensed corporation licensed for Type 13 regulated activity in relation to the carrying on by it of Type 13 regulated activity, an analysis of its client assets, as at the end of the month;”.

- (4) Section 56(1)(r)—

Repeal the full stop

Substitute

“; and”.

(5) After section 56(1)(r)—

Add

“(s) where it is licensed for Type 13 regulated activity, an analysis of relevant CIS property received or held by it for any relevant CIS arising from the carrying on of Type 13 regulated activity, as at the end of the month.”.

10. Schedule 1 amended (financial resources requirements)

(1) Schedule 1, Table 1, after entry relating to Type 10—

Add

“Type 13 \$10,000,000”.

(2) Schedule 1, Table 2, after entry relating to Type 10—

Add

“Type 13 \$3,000,000”.

Julia LEUNG
Chief Executive Officer,
Securities and Futures Commission

20 March 2023

Explanatory Note

The main object of these Rules is to amend the Securities and Futures (Financial Resources) Rules (Cap. 571 sub. leg. N) (*principal Rules*) to apply the principal Rules to licensed corporations licensed for Type 13 regulated activity (providing depositary services for relevant CISs).

2. Section 1 provides for the commencement of these Rules.
3. Section 3 amends section 2 of the principal Rules to amend and add various definitions used in the principal Rules in relation to a licensed corporation licensed for Type 13 regulated activity.
4. Section 4 amends section 20 of the principal Rules to provide for the amounts that a licensed corporation licensed for Type 13 regulated activity in relation to the carrying on by it of Type 13 regulated activity must include in its liquid assets and the amounts that a licensed corporation licensed for Type 13 regulated activity must not include in its liquid assets.
5. Section 5 amends section 21 of the principal Rules to disapply that section 21 to a licensed corporation licensed for Type 13 regulated activity in relation to the carrying on by it of Type 13 regulated activity.
6. Section 6 amends section 30 of the principal Rules to disapply that section 30 to a licensed corporation licensed for Type 13 regulated activity in relation to the carrying on by it of Type 13 regulated activity.

7. Section 7 amends section 37 of the principal Rules to disapply that section 37 to a licensed corporation licensed for Type 13 regulated activity in relation to the carrying on by it of Type 13 regulated activity.
8. Section 8 adds a new section 37A to the principal Rules. Section 37A provides for the amounts that a licensed corporation licensed for Type 13 regulated activity must include in its ranking liabilities.
9. Section 9 amends section 56 of the principal Rules to provide for the returns that a licensed corporation licensed for Type 13 regulated activity is required to submit to the Securities and Futures Commission.
10. Section 10 amends Schedule 1 to the principal Rules to provide for the paid-up share capital and required liquid capital for Type 13 regulated activity.