

**Regulations governing the Taking Up of Outside Work by Senior Staff of Regulatory Boards and Bodies in the “Advisory and Statutory Bodies” List after Leaving Service and the Reasons for Imposing Regulations Different from Those Currently Adopted by the Government for Directorate Civil Servants**

**1. Estate Agents Authority**

(a) Details on the Regulations

- The Chief Executive Officer shall not take up employment of any nature with an estate agent company within four months immediately after the completion of his employment with the Estate Agents Authority.
- The three Directors shall not take up employment of any nature with an estate agency company within three months immediately after the completion of their employment with the Estate Agents Authority.

(b) Reasons for Imposing Different Regulations

The relevant regulations are determined by the Estate Agents Authority in accordance with the power granted by section 11 of the Estate Agents Ordinance<sup>1</sup>, having regard to the specific circumstances of the Estate Agents Authority.

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<sup>1</sup> Under section 11 of the Estate Agents Ordinance, the Authority may determine the remuneration, allowances and other terms and conditions of its employees.

## **2. Mandatory Provident Fund Schemes Authority (“MPFA”)**

### **(a) Details on the Regulations**

- Prior approval must be obtained if a staff member, within six months after leaving the service of the MPFA, wishes to take up work in Hong Kong that may constitute a conflict of interest with that of the MPFA. The work concerned may include the taking up of business/employment in the following forms:
  - (i) entering into a business on his/her own account;
  - (ii) becoming a partner of a partnership;
  - (iii) becoming a staff of another organization, whether or not on a full time basis; or
  - (iv) being engaged or interested, whether as principal, agent, consultant or otherwise, in any business.
- The approving authorities are as follows:
  - Managing Director/Executive Director: the Management Board
  - All other staff: the Managing Director
- Furthermore, the Memorandum on Conditions of Service signed by staff joining the MPFA imposes contractual obligations not to disclose knowledge/information obtained in the course of performing his/her duties at the MPFA.
- Similarly, the confidentiality provision under the MPFSO (section 41) binds any person who obtains information in the exercise or performance of functions conferred or imposed by or under the MPFSO. Any person who at any time, without lawful authority, contravenes the section commits an offence and is liable on conviction to a fine.

### **(b) Reasons for Imposing Different Regulations**

The regulations are different from those of the Civil Service because the MPFA is a separate statutory body established under the MPFSO. The MPFA Management Board, with members appointed by the Chief Executive of HKSAR, is the governing body responsible for determining MPFA’s policies.

### **3. Securities and Futures Commission (“SFC”)**

#### **(a) Details on the Regulations**

- At present, sanitization requirements are applicable to Executive Directors (including the Chairman)<sup>2</sup>. The current rules require the Executive Directors (including the Chairman) to obtain prior permission in writing from a committee, comprising all Executive Directors and Non-Executive Directors except the officer concerned, for an employment during a six-month post-termination period if the activities of the new employment have been the subject of any of the statutory functions of the SFC in the period of 12 months before and/or 6 months after departure.
- In addition, there is a "Confidentiality" clause in the employment agreement which requires SFC employees, including all directorate staff, to maintain secrecy of confidential information even after they leave the Commission. SFC staff are also bound by the secrecy provisions as set out in section 378 of the Securities and Futures Ordinance (Cap. 571) which impose statutory secrecy obligations on them.

#### **(b) Reasons for Imposing Different Regulations**

SFC is an independent statutory body. Its staff are not civil servants and are employed on different terms and conditions. The regulations on the taking up of outside work by Government for directorate civil servants are therefore not applicable to the Commission. In developing its policies on regulating the taking up of outside work by its former staff including directorate staff after they leave SFC, the Commission has already considered market practice and similar arrangements of other relevant organizations.

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<sup>2</sup> According to Section 2 of Part 1 of Schedule 2 of the Securities and Futures Ordinance, the Chairman of the Commission shall, by virtue of holding that office, be regarded as an executive director of the Commission.