

SwedSec's Rules and Regulations

WITH COMMENTARIES

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Chapter 1. Introductory provisions and definitions

Section 1. The first part of these Rules and Regulations, Chapters 2-10, contains provisions which apply to affiliated companies and Licence Holders.

The second part, Chapters 11-16, contains provisions which primarily address the handling of matters and the organisation, etc. of SwedSec Licensing AB (“SwedSec”).

Section 2. The Rules and Regulations apply to SwedSec, affiliated companies, and Licence Holders.

Section 3. In these Rules and Regulations:

Licence: *means* a Licence which has been obtained pursuant to Chapter 4 or in accordance with transitional rules in force from time to time.

Active Licence: a Licence which is not inactive.

Licence Holder: *means* a natural person who holds a Licence, irrespective of whether or not the Licence is inactive.

Chapter 2. Companies covered

Section 1. Following approval, companies may affiliate to SwedSec provided they conduct any of the following operations in Sweden:

- 1. investment services pursuant to the Securities Market Act (SFS 2007:528);**
- 2. fund operations pursuant to the UCITS Funds Act (SFS 2004:46);**
- 3. insurance business pursuant to the Insurance Business Act (SFS 2010:2043) which provides financial advice or manages the company's own financial instruments;**
- 4. insurance mediation pursuant to the Insurance Mediation Act (SFS 2005: 405) which provides financial advice regarding life assurance containing a savings element; or**
- 5. management of a non-UCITS fund or discretionary management of investment portfolios in accordance with the Alternative Investment Funds Managers Act (2013:561) ('AIF managers').**

A Swedish branch of a foreign company which conducts operations equivalent to those stated in subsections 1-5 may affiliate to SwedSec.

A company's affiliation is conditional on the company possessing an organisation and appropriate guidelines which ensure monitoring of regulatory compliance by Licence Holders employed at the company.

Commentary: Before an application for affiliation can be approved by SwedSec, an information meeting must have been held between the company applying for affiliation and SwedSec. The Rules and Regulations enter into force directly after SwedSec has approved the affiliation (i.e. signed the agreement). Thus, newly started companies should consider whether

to defer affiliation until their operations have actually started, personnel have been recruited and trained, etc.

(Subsections 3 and 4) The terms “financial advice” and “life assurance containing a savings element” correspond to the same terms used in section 1 of the Consumers (Financial Advice) Act (2003:862). The meaning of “life assurance containing a savings element” is set forth in the preparatory works (Govt. Bill 2003/04:109) to the aforementioned Act. The preparatory works state, *inter alia*, that since life assurance policies containing a savings element are involved, pure risk insurance policies are not included. It is further stated “Whether or not a life assurance policy is a pure risk insurance policy depends on the terms and conditions of the insurance contract. In a policy containing a savings element, the aim is that the premiums which are paid in will sooner or later be paid out, plus any return.”

(Subsection 5) The provision is intended to cover only AIF managers who manage non-UCITS funds or manage investment portfolios on a discretionary basis. Accordingly, managers of “other AIF funds” such as private equity funds and property funds cannot affiliate to SwedSec pursuant to this subsection.

(Third paragraph) The provision imposes a requirement on affiliated companies to verify regulatory compliance by their Licence Holders (i.e. both own employees and Licence Holders who are regarded as employees of the affiliated company pursuant to the provisions on tied agents in Chapter 2, section 4). This is to ensure that the affiliated company possesses the conditions to be able to perform its reporting obligation pursuant to Chapter 8, section 9. The requirement applies both at the time of affiliation and during the subsequent period of affiliation. Monitoring of regulatory compliance by Licence Holders can be organised in various ways, and can be carried out internally within the affiliated company or by a service provider.

Section 2. In exceptional cases and following approval by SwedSec's board, other parties which are subject to supervision by the Swedish Financial Supervisory Authority or which conduct similar operations may affiliate to SwedSec.

In the agreement with SwedSec, such parties shall undertake as follows:

- 1. to ensure that only employees who hold a Licence shall hold positions or perform work duties corresponding to those stated in Chapter 3, section 1, subsections 1-17; and**
- 2. to apply the rules relevant to the operations.**

Commentary: Both Swedish and foreign companies and organisations may be involved. However, such companies have little possibility of affiliation. In order for affiliation to take place, licensing of personnel of such companies must appear to be meaningful. In these cases, SwedSec should consider, among other things, the extent to which the company is subject to any external regulatory regime and has internal rules, etc. pursuant to which, e.g. disciplinary proceedings may be brought. Chapter 3, section 1, final paragraph provides that licensing affects employees holding positions and performing work duties in Sweden. See also Chapter 8, section 1, first paragraph.

Tied Agents

Section 3. Only a tied agent pursuant to Chapter 1, section 5, subsection 1 of the Securities Market Act, which is also such a company as stated in section 1, may be directly affiliated to SwedSec.

Commentary: In many cases, a tied agent may decide whether the company is to be directly affiliated to SwedSec or whether the employees shall be licensed as if they were employed in the company for which it is a tied agent; see section 4. However, direct affiliation requires that the company is, e.g. an investment firm, fund management company, insurance company or insurance intermediary (see section 1).

Section 4. The following provisions shall apply to a tied agent of an affiliated company, unless the tied agent is directly affiliated:

- 1. upon the application of these Rules and Regulations, a tied agent who is a natural person shall be regarded as an employee of the affiliated company insofar as relates to agency operations;**
- 2. upon the application of these Rules and Regulations, an employee of a tied agent, which is a legal entity, shall be regarded as an employee of the affiliated company insofar as relates to agency operations.**

Commentary: As stated in Chapter 8, section 1, affiliated companies are obliged, among other things, to ensure that, at tied agents in Sweden, only employees with an active Licence hold the positions and perform the work duties stated in Chapter 3, section 1, first paragraph.

Obligation of affiliated companies to comply with the Rules and Regulations

Section 5. Affiliated companies shall comply with SwedSec's Rules and Regulations commencing the date of execution of an affiliation agreement.

Commentary: Affiliation to SwedSec is voluntary. However, affiliation constitutes support for the values and objectives on which SwedSec's activities are based; accordingly, it is assumed that affiliated companies will comply in good faith with the Rules and Regulations. The provision entails that affiliated companies are bound by the version of the Rules and Regulations in force upon entry into the affiliation agreement and as subsequently amended in accordance with the provisions in Chapter 16.

Termination of affiliation

Section 6. An affiliated company may give notice in writing of termination of its affiliation to SwedSec. With the exception of obligations pursuant to section 9, the agreement shall terminate upon receipt of notice of termination by SwedSec.

Other cases when affiliation terminates

Section 7. SwedSec may decide that affiliation shall terminate in the event the Swedish Financial Supervisory Authority, or a corresponding foreign authority, revokes the affiliated company's Licence to conduct operations.

Commentary: SwedSec may decide that affiliation shall not terminate in the event the revocation entails, in essence, that the company ceases to conduct one type of business for which a Licence is required and begins to conduct another business for which a Licence is required, e.g. where an investment firm which conducts marketplace operations becomes an exchange.

Section 8. SwedSec may decide that affiliation shall cease in the event the affiliated company ceases to conduct operations pursuant to Chapter 2, section 1.

Notice of termination periods, etc.

Section 9. In the event a company's affiliation has terminated pursuant to sections 6-8, the company's obligations vis-à-vis SwedSec shall apply in accordance with the following:

- 1. The obligation to file reports pursuant to Chapter 8, section 9 (a Licence Holder's breach of rules, etc.) shall apply in respect of any violation of rules by a Licence Holder until the effective date of termination;**
- 2. The obligation to disclose information to SwedSec in disciplinary matters and to file reports pursuant to Chapter 8, section 9 shall terminate 36 months after the effective date of termination;**
- 3. The obligation to comply with decisions taken pursuant to Chapter 10, section 11 in respect of acts or omissions which occurred during the period in which the company was affiliated shall remain in force after the effective date of termination. Similarly, the company is obliged to comply with the dispute resolution provisions in Chapter 10, section 13 and to comply with such a decision also after affiliation has effectively ceased.**
- 4. Other obligations shall terminate 30 days after the effective date of termination.**

Commentary: The first subsection prescribes that a company which has terminated its affiliation, or where the affiliation has terminated for other reasons, is obliged to report any violations of rules committed by a Licence Holder up to the effective date of termination. The second subsection entails that the company's obligation to file such reports with SwedSec terminates 36 months after the effective date of termination, i.e. a violation of rules which occurred one day prior to the termination must be reported even if the company discovers the violation three years after the termination. However, a violation of rules which occurs after termination shall not be reported, even if the company discovers it immediately.

Decisions regarding fines may thus be taken after termination by the company, but must relate only to omissions up to the effective date of termination.

Chapter 3. Obligatory Licence Holders

Section 1. The following employees must hold a Licence:

Management and control functions – category A

- 1. A managing director or his/her deputy, of**
 - a. an investment firm whose operations primarily comprise investment services;**
 - b. a fund management company ;**
 - c. a legal entity which is not a credit institution but which is an insurance intermediary;**
 - d. an AIF manager;**
- 2. the executive officer in charge of material parts of an investment firm's investment services;**
- 3. the executive officer in charge of material parts of a fund management company's fund or asset management business;**
- 4. the executive officer in charge of an insurance company's investment management business or the provision of financial advice;**
- 5. the executive officer in charge of material parts of an AIF manager's management or the provision of investment advice;**
- 6. compliance officers or holders of equivalent positions working within**
 - a. investment services at an investment firm;**
 - b. a fund management company;**
 - c. investment management business or the provision of financial advice at an insurance company;**
 - d. insurance mediation at legal persons which are not credit institutions;**
 - e. AIF managers;**
- 7. holders of positions within the risk control and other material control functions who spend 50 per cent or more of their work time within the areas referred to in subsections 2-5;**

Advisers – category B

- 8. a person engaged in providing financial advice to consumers or investment advice to clients;**
- 9. a person engaged in insurance mediation and the provision of financial advice regarding life assurance policies containing a savings element;**

Specialists – category C

- 10. a person engaged in discretionary portfolio management of client assets;**
- 11. a person engaged in the management of UCITS funds or non-UCITS funds;**
- 12. a person who spends 50% or more of his/her work time on:**
 - a. receipt and forwarding of orders from clients; or**
 - b. executing orders on instructions from clients; or**
 - c. executing trades on behalf of the affiliated company;**
- 13. a person who is authorised to execute transactions on exchanges or the trading systems of MTFs;**

- 14. a person who develops investment analyses;**
- 15. a person who designs investment products focused on a group which may include retail clients;**
- 16. a person who engages in the provision of advisory services within corporate finance business; or**
- 17. a person who receives and forwards or executes clients' orders regarding fixed income instruments within automated order-driven trading on exchanges or MTFs, provided that such work duties are primarily focused on retail clients.**

The licensing requirement with respect to the above employees affects holders of positions who work in Sweden and work duties performed in Sweden.

Commentary: Companies are organised in different ways and it is not certain that all of the functions stated in the provision are in place or fit in with the company's organisation. However, the starting point is that the Licence requirement is to be interpreted broadly, i.e. in the case of uncertainty as to whether an employee is subject to the requirement, the company should choose to Licence the person in question. The licensing examination(s) which the employee is required to take depend(s) on the category/categories under which the employee's position or work duties are placed. Accordingly, it may be necessary for a new licensing examination to be taken where a new position or changed work duties are classified under another category.

With respect, e.g. to subsections 2-5, the affiliated company should make an assessment, based on its own organisation, of which person or persons should be covered by the Licence requirement, in light of the purpose of the licensing. The provision is not directed at IT managers, personnel managers, information managers or other managers who are not directly involved in the investment services or equivalent. However, they may obtain a voluntary Licence pursuant to section 3. In the case of doubt, there may be reason to consult SwedSec. The provision is focused on employees. Consequently, licences cannot be granted to lawyers, auditors and consultants. However, Chapter 2, section 4 applies to tied agents.

The size, operations and organisation of the company are also of importance as to which licensing examination an employee must take for his or her Licence. With respect to managing directors (subsection 1), compliance officers (subsection 6) and risk managers, etc. (subsection 7), the licensing examination for management and control functions constitutes the examination which best corresponds to the proficiency requirements that should be imposed with respect to such positions, irrespective of the size of the company. This is also the examination which executive officers in accordance with subsections 2-5 should take. However, in a smaller company an employee may hold such an executive position as referred to in subsections 2-5 while at the same time having work duties as a specialist (subsections 10-17) or adviser/insurance intermediary (subsections 8-9). In such cases, it is up to the company to assess which examination or examinations are most relevant for the individual in question. In larger companies, heads of business areas/divisions or equivalent who report directly to the managing director should take the licensing examination intended for management and control functions, while as regards other executive officers it can often be more relevant to take the licensing examination intended for specialists or advisers, depending on the area of responsibility. In a smaller company, there might not be any executive levels between managing director and, e.g. trading desk manager or the head of an advisory services unit. In such cases, the licensing examination for specialists or advisers might be most

relevant. However, certain employees may need to take several different licensing examinations.

(Subsection 1 a) Turnover, for example, may be used as guidance. If 50 per cent or more of the turnover is derived from investment services, the institution's operations may be deemed "primarily" to comprise investment services.

(Subsections 2-5) It may involve those persons at, for example, an investment firm who are heads of proprietary trading, portfolio management, client trading, analysis, corporate finance and back office (securities administration). In this context, the intention is to heads of business areas with responsibility for significant parts of the business operations. On the other hand, persons with only group manager responsibility for, e.g. advisers, as not intended.

(Subsections 6 and 7) As regards the compliance officer and risk controller functions, the provision is focused on those individuals who perform the work duties which are typically covered by rule compliance functions (see, e.g. Chapter 6, section 9 FFFS 2007:16 as regards investment firms and Chapter 6, section 9 FFFS 2008:11 as regards fund management companies) and risk management (see, e.g. Chapter 6, section 12 FFFS 2007:16 in respect of investment firms and Chapter 6, section 11 FFFS 2008:11 in respect of fund management companies). Accordingly, it is not the title held by the person in question which determines the issue of whether there is a Licence requirement. Only those persons who work within the part of the affiliated company's operations which involve investment services, fund business and advisory services are covered. For example, major banks and insurance companies may have several compliance officers with different duties. It is intended that the Licence requirement shall apply only to those compliance officers who work within the division(s) or units in which investment transactions, provision of investment advice, analyses or corporate finance are carried out; however, not compliance officers who are involved solely with the bank's deposit and lending business or an insurance company's insurance business. Nor does the Licence requirement extend to centrally placed lawyers who are not directly involved in the day-to-day operations within the aforementioned business areas.

(Subsection 8) The term "investment advice" corresponds to the same term used in Chapter 2, section 1, subsection 5 of the Securities Market Act. According to Article 4(1)(4) of the MiFID Directive, 'investment advice' means "the provision of personal recommendations to a client, either upon its request or at the initiative of the investment firm, in respect of one or more transactions relating to financial instruments." In Article 52 of the Implementation Directive, it is further stated that for the purposes of the definition of 'investment advice' in Article 4(1)(4) of the MiFID Directive, a personal recommendation "is a recommendation that is made to a person in his capacity as an investor or potential investor, or in his capacity as an agent for an investor or potential investor. That recommendation must be presented as suitable for that person, or must be based on a consideration of the circumstances of that person, and must constitute a recommendation to take one of the following sets of steps: (a) to buy, sell, subscribe for, exchange, redeem, hold or underwrite a particular financial instrument; (b) to exercise or not to exercise any right conferred by a particular financial instrument to buy, sell, subscribe for, exchange, or redeem a financial instrument. A recommendation is not a personal recommendation if it is issued exclusively through distribution channels or to the public." 'Client' means both retail clients and other clients of the affiliated company, insofar as relate to investment advice. On the other hand, the provision of other advisory services, e.g. regarding home loans, corporate loans, etc. is not subject to the Licence requirement. Personnel who engage in the provision of financial advice to consumers or investment advice

may be found in all categories of companies which may become affiliated, i.e. at investment firms, fund management companies, insurance companies, insurance intermediaries, and AIF managers.

(Subsection 9) The terms ‘financial advice’ and ‘life assurance containing a savings element’ are addressed in the commentary on Chapter 2, section 1, subsection 4.

(Section 10) The provision refers to an employee engaged in discretionary portfolio management at an investment firm, fund management company or AIF manager.

(Section 11) The provision refers to an employee engaged in the management of UCITS funds at a fund management company and the management of non-UCITS funds at a fund management company or at an AIF manager.

(Subsection 12) The degree of work is linked to the individual's work time. Thus, the rules entail that, e.g. a person who devotes to the stated duties at least 50 per cent of a half-time job must hold a Licence.

(Subsection 14) Upon application of the rule, the intention is to such investment analyses as stated in Chapter 11, section 8 FFFS 2007:16.

(Subsection 15) The provision relates to those persons who, e.g. work at the unit within the company which produces structured products. Accordingly, the Licence requirement does not apply to personnel who, e.g. are engaged in marketing and layout.

Exemptions

Section 2. The Licence requirement in accordance with section 1, first paragraph, subsections 2-5 and 12-16 shall not apply to an employee who works exclusively with fixed income or currency-related financial instruments. The Licence requirement in accordance with section 1, first paragraph, subsection 8 shall also not apply an employee who engages solely in the provision of investment advice to business clients with respect to fixed income or currency-related financial instruments.

Commentary: An employee who engages in the provision of financial advice to consumers or investment advice to consumers or manages funds cannot invoke this exemption provision; instead, the Licence requirement shall apply to such employee.

Voluntary Licence

Section 3. Employees other than those enumerated in section 1, first paragraph, subsections 1-17 may obtain a Licence, subject to the consent of the company.

Commentary: A person who obtains a voluntary Licence pursuant to this provision is covered by the Rules and Regulations and thus may be subject to disciplinary sanctions. The possibility of obtaining a voluntary Licence does not extend to service providers other than tied agents of affiliated companies. See also the commentary on Chapter 9, section 2.

Chapter 4. Licence requirements

Section 1. In order to obtain a Licence, the applicant must:

- 1. be employed by an affiliated company;**
- 2. be suitable to hold a Licence, which fact must be assessed and certified by the affiliated company;**
- 3. pass a licensing examination and, if a licensing examination was passed earlier than the calendar year in which the Licence is sought, also carry out annual knowledge updates pursuant to Chapter 5 in respect of the years which have elapsed between the examination and the application;**
- 4. undertake to comply with these Rules and Regulations and to accept decisions issued by SwedSec and the disciplinary board; and**
- 5. consent to the applicant's personal data being registered, processed, and made public in accordance with these Rules and Regulations.**

Commentary: (Subsection 1) Pursuant to Chapter 2, section 4, employees of a tied agent of the company are regarded as employees of the company. On the other hand, a person who is, e.g. employed in a parent company, and where only the subsidiary is affiliated to SwedSec, is not regarded as an employee.

(Subsection 2) With respect to the suitability assessment, see Chapter 8, sections 4-6.

(Subsection 3) According to an earlier transitional rule, a Licence could also be obtained without passing a licensing examination (referred to as an 'experience Licence'). The earlier rule that an experience Licence lapsed upon change of employer has been deleted, and there are now no differences between an experience Licence and other Licenses. However, a holder of an experience Licence who has not taken any such proficiency test as required pursuant to Chapter 16, section 6 FFFS 2007:16 for advisors at investment firms and Chapter 2, section 5 FFFS 2004:4 for other advisers (the requirements do not, however, apply to employees at Swedish branches of foreign companies) is not authorised to provide advice to consumers pursuant to the provisions of the Securities Market Act and the Financial Advice to Consumers Act. Accordingly, an experience Licence does not constitute evidence that an appropriate proficiency test has been taken pursuant to the stated provisions.

(Subsection 4) An applicant cannot obtain a Licence before he or she has undertaken to comply with the Rules and Regulations, etc. Thus, the affiliated company must ensure that the employees provide the acceptances, etc. required in the online service, failing which the applicant will not hold a Licence and the company will run the risk of violating the provision in Chapter 3, section 1 pursuant to which it must ensure that only Licence Holders hold certain positions and perform certain work duties.

Section 2. These Rules and Regulations shall apply to the Licence Holder commencing the date on which he or she becomes licensed by SwedSec.

Commentary. The provisions of Chapter 16 regarding amendments to the Rules and Regulations also apply to the Licence Holder as from the date of becoming licensed.

Section 3. A person whose Licence has been revoked pursuant to Chapter 10, sections 2 or 3, or would have been revoked had the individual still been a Licence Holder pursuant to Chapter 10, section 9, may not obtain a new Licence until three years have passed from the date on which the Licence was conclusively revoked or a decision was issued by the disciplinary board pursuant to Chapter 10, section 9. However, where the disciplinary board has decided that the revocation shall be, or would have been, temporary, the period of time determined by the Board shall apply.

Section 4. A person whose Licence has been revoked without any limitation in time must thereafter pass a licensing examination in order to obtain a Licence.

Section 5. The designation "SwedSec-licensed"® or similar may be used only when a Licence Holder with an active Licence performs work duties at an affiliated company or at a tied agent.

Commentary: The intention is to use vis-à-vis the general public and clients; a Licence Holder may state that he holds a Licence, for example in his CV when seeking a job. "SwedSec-licensed"® is a registered trademark.

Chapter 5. Annual knowledge updates

Section 1. An affiliated company must ensure that Licence Holders who are employed in the affiliated company remain up to date in their knowledge in accordance with the proficiency requirements established in Chapter 13, section 2, and the company shall carry out appropriate proficiency checks regarding the employees' knowledge updates. The requirement does not apply to Licence Holders with an inactive Licence.

Commentary: The affiliated companies may themselves choose the method for updating the knowledge possessed by the Licence Holders. Different types of relevant training or information to the Licence Holders may be accepted. This may involve training in the form of courses, seminars or web-based training. What the affiliated company certifies is that the Licence Holders' knowledge has been updated. The affiliated company must also verify that the Licence Holders have actually benefited from the training. It is sufficient if the Licence Holders have undergone web-based training which included control questions demonstrating that they have received necessary knowledge. If, on the other hand, the Licence Holders have participated in seminars or equivalent or only undertaken independent studies without any proficiency assessment, additional measures must be taken by the affiliated company to check actual proficiency.

Section 2. The Licence Holder is obliged to undergo the annual knowledge update and proficiency assessments demanded by the affiliated company.

Commentary: Knowledge updates in the form of web-based training normally conclude with questions aimed at verifying that the Licence Holder has benefited from the training.

Section 3. The annual knowledge update requirement does not apply to a holder of an inactive Licence. However, in the event the inactive Licence is to be activated, the Licence Holder must undergo annual knowledge updates pursuant to this Chapter in respect of the year or years in which the Licence has been inactive.

Section 4. Prior to the end of November each year, affiliated companies must submit a report to SwedSec as to which of the company's Licence Holders have updated their knowledge and undergone a proficiency assessment in accordance with section 1.

Reporting in accordance with the first paragraph shall take place via the online service.

Commentary: Companies should set an internal deadline which is earlier than 30 November, to ensure that information as to which Licence Holders have undergone the updating is compiled on time.

Section 5. If a Licence Holder fails to participate in offered training and undergo a proficiency assessment, SwedSec may order that the Licence shall expire, unless the Licence is declared inactive pursuant to Chapter 6, section 4. SwedSec shall notify the affiliated company before such a decision is taken.

Commentary: According to section 4, companies must report which employees have undergone knowledge updates. If such a report lacks information regarding a specific Licence Holder, SwedSec shall contact the affiliated company in order to verify whether this is due to a mistake or whether the Licence shall be declared inactive. The question of a decision that the Licence shall expire arises only if the company announces that the Licence Holder will not undergo the knowledge update and there is no question of a Licence being declared inactive.

Chapter 6. Inactive Licence and Licence expiry

Section 1. The following sections contain provisions regarding licences being declared inactive, etc. The same Rules and Regulations apply to Licence Holders with an inactive Licence as apply to other Licence Holders, with the exception of the annual knowledge update requirement in Chapter 5, section 1.

Inactive Licence due to parental leave, leave of absence, etc.

Section 2. An affiliated company may submit an application to SwedSec that a Licence Holder's Licence be declared inactive where there are reasons for so doing, e.g. where the Licence Holder is to be on parental leave, leave of absence for any other reason, discharged from work duties, or is to change work duties.

An application pursuant to the first paragraph shall be made via the online service.

Inactive Licence due to termination of the employment

Section 3. Where a Licence Holder's employment at an affiliated company terminates, the Licence shall become inactive as from the day on which the employment terminates.

Inactive Licence due to failure to undergo annual knowledge update

Section 4. Where, due to illness, parental leave or other similar reason, a Licence Holder is unable to carry out an annual knowledge update within the period stated in Chapter 5, section 4, the Licence shall be declared inactive upon application by the affiliated company.

An application for a declaration of inactivity shall be made via the online service.

Inactive Licence due to termination of the employer's affiliation to SwedSec

Section 5. In the event a company ceases to be affiliated to SwedSec, the employees' licences shall be declared inactive upon application by the affiliated company.

Expiry of inactive Licence

Section 6. An inactive Licence shall expire after five years have elapsed from the day on which SwedSec declared the Licence inactive.

Activation of inactive Licence

Section 7. An inactive Licence may be activated upon application by the affiliated company, e.g. in respect of a newly recruited employee. Such an application must be made through a new Licence application via the online service.

Commentary: When any holder of an inactive Licence obtains new work, it is not certain that the new employment will require a Licence. The affiliated company may make an assessment based on the provisions in Chapter 3.

Section 8. In order for an inactive Licence to be activated, the Licence Holder must undergo the annual knowledge updates pursuant to Chapter 5 which the Licence Holder did not undergo during the period when the Licence was inactive.

Section 9. Upon activation of an inactive Licence, the affiliated company must assess whether the Licence Holder is suitable to hold a Licence and attest thereto in the online service.

Commentary: With respect to the suitability assessment, see Chapter 8, sections 4-6.

Chapter 7. Exemptions

Exemptions from licensing examinations

Section 1. SwedSec may issue a Licence without the applicant having passed a licensing examination, provided other conditions pursuant to Chapter 4, section 1 are satisfied and particular reasons exist.

Where SwedSec has entered into an agreement regarding mutual recognition of an examination conducted by another party, SwedSec may also issue a Licence in accordance with the conditions stated in such agreement.

Commentary: (first paragraph) The possibility to obtain a Licence without taking a licensing examination may, for example, be applied in those cases where the applicant is considered to possess sufficient expertise, but special circumstances result in derogation from the licensing examination requirement, e.g. in the case of sight impairment or other similar circumstances. The provision is to be applied extremely restrictively. It is not intended to reintroduce a possibility to obtain a Licence based on long experience.

Exemption from the Licence requirement

Section 2. Where special reasons exist, SwedSec may, for a limited period of time, grant an exemption from the Licence requirement pursuant to Chapter 3, section 1.

Such an exemption may also be granted without any limitation in time where particular reasons exist.

Commentary: (first paragraph): The provision is applied primarily in cases where someone takes up a position which is subject to a Licence requirement. In such case, it is reasonable that the person obtain an exemption for a number of months in order to take the licensing examination. There may also be other situations where such an exemption for a limited time may be relevant. A person who is not covered by the 50 per cent requirement in Chapter 3, section 1, subsection 12 and who reduces his work time due to illness, parental leave or suchlike, but retains his work duties regarding, e.g. receipt of orders, and thereby exceeds the 50 per cent threshold, should be able to obtain an exemption for a limited period of time. Similarly, a person who is to work for only a short period of time within an area subject to a Licence requirement may obtain an exemption pursuant to this section. This may, for example, involve a person who satisfies corresponding proficiency requirements in another country and who, for a limited period of time, is to perform work duties in Sweden which require a Licence.

(Second paragraph) The provision can be applied, e.g. when the Licence requirement is based on the rule in Chapter 3, section 1, first paragraph, subsections 1-5, but, due to the organisation of the affiliated company, the actual responsibility is delegated to another person who holds a Licence.

Exemption from annual knowledge updates

Section 3. Where special reasons exist, SwedSec may grant an exemption for a limited time in order to allow the applicant to carry out previously non-completed knowledge updates.

Commentary: According to Chapter 6, section 4, the Licence may be declared inactive in the event the Licence Holder is unable to carry out the annual knowledge update on time due to illness, parental leave or any other similar reason. A declaration of inactivity means that the Licence Holder may not perform certain work duties (see Chapter 3, section 1, first paragraph). Exemptions pursuant to this provision are primarily for Licence Holders who are active within an area subject to a Licence requirement and who need additional time to carry out the annual knowledge update. The possibility of an exemption may also be used by Licence Holders who return from an extended leave of absence or, for any other reason, have not held an active Licence during an extended period of time. Without the exemption possibility, the Licence Holder would be unable to perform his work duties immediately. The Licence Holder must first update his knowledge before the Licence can be activated. This may result in the Licence Holder being unable to perform his ordinary work duties for one or more days. The provision allows SwedSec, where special reasons exist, to grant an exemption for a limited time to enable the Licence Holder to perform his work duties pending the knowledge update.

The exemption possibility is to be applied restrictively. The exemption to be considered normally should not exceed one week per annual knowledge update. The main rule, therefore, is that the Licence shall be declared inactive.

Applications for exemption

Section 4. An application for an exemption pursuant to sections 1-3 shall be made by the affiliated company.

Commentary: Applications shall be made via the online service. However, in certain cases it may be required that the application be supplemented with an appendix/appendices, e.g. certification which is physically submitted to SwedSec.

Chapter 8. Obligations of affiliated companies

Obligations to SwedSec, clients and employees

Section 1. In the absence of an exemption situation pursuant to Chapter 3, section 2, an affiliated company shall ensure that only employees holding an active Licence, or employees with an exemption from the Licence requirement, hold the positions or perform the work duties in Sweden as stated in Chapter 3, section 1.

Employees who hold the positions or perform the work duties stated in category A in Chapter 3, section 1, first paragraph should hold a Licence based on SwedSec's licensing examination for management and control functions, SwedSec's licensing examination for the securities market, or an older transitional provision (experience Licence).

Employees who perform the work duties stated in category B in Chapter 3, section 1, first paragraph should hold a Licence based on SwedSec's licensing examination for advisers, SwedSec's licensing examination for the securities market, item 1 of the transitional provisions in the 2013 Rules and Regulations, or an older transitional provision (experience Licence).

Employees who perform the work duties stated in category C in Chapter 3, section 1, first paragraph should hold a Licence based on SwedSec's licensing examination for specialists, SwedSec's licensing examination for the securities market, or an older transitional provision (experience Licence).

Commentary: All employees stated in Chapter 3, section 1 must hold a Licence. An affiliated company's responsibility extends to both its own employees and employees of tied agents; see Chapter 2, section 4. The affiliated company must assess which Licence examination(s) must be taken by employees. Such assessments must be made in a responsible and discerning manner.

A company which affiliates to SwedSec must immediately seek an exemption in respect of those employees who, pursuant to Chapter 3, section 1, first paragraph are required to hold a Licence in order to be able to continue to perform their work duties, pending the granting of a Licence. Companies shall also monitor that the employees undergo a licensing examination before the exemption expires.

See the commentary on Chapter 3, section 1, first paragraph, in which it is stated which licensing examination should be taken.

“An older transitional provision (experience Licence)” refers to the transitional provision pursuant to section 4.18 of SwedSec's Rules and Regulations dated 1 July 2001. With respect to experience Licences, see also the commentary on Chapter 4, section 11, subsection 3.

The holder of a Licence based on SwedSec's licensing examination for the securities market has not thereby carried out a proficiency test which satisfies the proficiency requirements or the experience requirements set forth in the Swedish Financial Supervisory Authority's Regulations and General Guidelines governing insurance mediation (Chapter 2 of FFFS 2005:11), and accordingly such a Licence Holder is not authorised to act as an insurance intermediary based solely on his or her Licence.

Section 2. An affiliated company shall endeavour to ensure that, upon request, the Company's clients receive assistance from a Licence Holder with an active Licence.

Obligation to provide information, notification, certificates, etc.

Section 3. An affiliated company is obliged, upon written request by SwedSec, to provide SwedSec with the information that SwedSec requests and requires for the application of these Rules and Regulations.

Commentary: SwedSec does not normally require information regarding clients' names, etc. in order to assess disciplinary matters, etc. Thus, identifying details should be deleted from information in order to ensure the company's compliance with statutory confidentiality rules.

Suitability assessment

Section 4. An affiliated company is obliged to conduct a comprehensive suitability assessment with respect to an employee who is required to hold a Licence. In conducting the suitability assessment, the affiliated company shall comply with the provisions of section 5.

Commentary: The suitability assessment must be aimed at minimising the risk of unsuitable individuals becoming Licence Holders. It is of great importance for public confidence in the operations conducted by the affiliated companies that stringent demands as regards suitability and regulatory compliance are imposed on personnel who are to be licensed. The suitability assessment must provide the affiliated company with a basis for making a relevant assessment of the employee's or tied agent's suitability for being Licence Holder, irrespective of whether the employee or tied agent previously held a Licence at another affiliated company. In conjunction with the affiliated company's assessment, consideration should be given to the employee's qualities, such as judgement, integrity and independence. Consideration shall be given to whether SwedSec's disciplinary board has imposed any disciplinary sanctions on the employee. In respect of an employee who holds or has held a Licence from employment at another affiliated company, it is important that the affiliated company verifies the register extract in accordance with section 8.

Section 5. The affiliated company shall assess whether the employee's circumstances are such as to enable the employee to perform his or her obligations as a Licence Holder pursuant to Chapter 9.

An employee who, during the past five years, has been convicted or pleaded no contest in respect of a criminal offence, the nature of which is likely to diminish confidence in the employee, should be deemed not suitable to hold a Licence. An employee on whom a ban on trading has been issued during the same period of time should also be deemed unsuitable to hold a Licence. An employee's personal suitability in other respects must also be assessed.

Exceptions from the aforementioned provisions of the second paragraph may be made by the affiliated company in the event special circumstances come to light which indicate that the employee may nevertheless be deemed suitable.

With respect to any employee who is to engage in insurance mediation (see Chapter 3, section 1, first paragraph, subsection 9), the suitability assessment shall also include verification that the employee satisfies the Swedish Financial Supervisory Authority's requirements for insurance intermediaries.

With respect to any employee who is to engage in the provision of investment advice or financial advice to consumers (see Chapter 3, section 1, first paragraph, subsection 8), the suitability assessment shall also include verification that the employee satisfies the practical experience requirements imposed by the Swedish Financial Supervisory Authority with respect to such work duties.

Commentary: (second paragraph) The main rule is that an employee who has been convicted of, e.g. economic crimes is not suitable to hold a Licence. The nature of such crimes is such as to damage confidence. Crimes involving breach of trust, for example, embezzlement, are based *per se* on someone having abused the confidence placed in him or her. Fraud, crimes against creditors and, to a certain extent, unfair trading, involve someone having made a profit – through a criminal offence – at the expense of another. A person who is guilty of this type of behaviour should not be deemed suitable to be a Licence Holder. However, in exceptional cases it may occur that someone has been convicted of such an offence without the behaviour *per se* being deemed to diminish confidence to such an extent that the person convicted should not hold a Licence; see, for example, the disciplinary board's decision 2011:05. In such cases, the exception rule in the third paragraph may be applicable. In conjunction with the suitability assessment, bankruptcy is a factor which is to be included in the assessment.

(Third paragraph) An exception might, for example, be made in a situation where a person has been convicted of an offence within the five-year period, but the crime was committed earlier. Another reason for an exception might be that the court found there to be mitigating circumstances relating to the perpetration of the crime, in light of which the person can nevertheless be deemed suitable to hold a Licence.

(Fourth paragraph) The provisions regarding suitability assessment for insurance intermediaries are set forth in Chapter 11 of FFFS 2005:11.

(Fifth paragraph) The provisions regarding practical experience are set forth in Chapter 2 of FFFS 2005:11, and in Chapter 16 of FFFS 2007:16.

Note that other statutes may contain suitability assessment requirements in respect of certain employees, e.g. senior executives.

Section 6. When an affiliated company applies for a Licence in respect of an employee, the affiliated company must (1) certify via the online service that the applicant is employed by the affiliated company and (2) certify that a suitability assessment has been conducted in accordance with sections 4 and 5 and that the employee is suitable to hold a Licence.

Section 7. An affiliated company shall, within ten banking days at the latest, notify SwedSec via the online service regarding the termination of a Licence Holder's employment (deregistration). The company shall thereupon state whether or not termination of the employment was connected to a reported violation in accordance with section 9.

Section 8. Where an affiliated company recruits a person who holds a Licence, the company should verify the register extract which, upon request, the Licence Holder is required to present; see Chapter 15, section 9.

Commentary: The register extract sets forth pending disciplinary matters, issued disciplinary sanctions, and whether or not termination of the Licence Holder's employment was connected to any reported violation of the rules.

Section 9. An affiliated company shall, as soon as possible, report to SwedSec in writing where, during the period of employment at the company, a Licence Holder has:

- 1. breached his obligations pursuant to Chapter 9, sections 2 and 3 or otherwise seriously neglected the obligations incumbent upon him in the performance of his duties and there is reason to assume that this may result, or might have resulted, in disciplinary sanctions pursuant to Chapter 10; or**
- 2. committed a criminal offence or otherwise outside the performance of his duties, acted in such a manner that, based on his personal circumstances, the Licence Holder cannot be deemed suitable to hold a Licence.**

The reporting obligation pursuant to the first paragraph applies notwithstanding that the Licence Holder has concluded his employment when the matter is discovered.

The affiliated company's obligations pursuant to the first and second paragraphs shall apply also with respect to any employee or former employee whose Licence has expired.

A report shall contain a description of the circumstances on which it is based. SwedSec may request supplementary information in the event a report lacks information or is otherwise deficient.

Commentary: The Licence Holder's obligations are set forth in Chapter 9. In the event the Licence Holder violates such obligations, this may trigger disciplinary sanctions by the disciplinary board. The foregoing applies also where the Licence Holder has otherwise seriously violated obligations in the performance of his duties, which may be the case where the Licence Holder has committed a criminal offence against clients or the employer. The

obligation to report such violations arises where there is reason to assume that a violation may result in disciplinary sanctions. Disciplinary sanctions may also be relevant where the Licence Holder has committed a criminal offence outside the performance of his duties or where, due to his personal circumstances, he otherwise appears to be unsuitable to be a Licence Holder; cf. Chapter 10, section 3. In such cases, a reporting obligation arises if there is reason to assume that the Licence Holder is not suitable to hold a Licence and that revocation may therefore be relevant. The obligation to report that the Licence Holder has committed a criminal offence is conditional on the affiliated company being aware of the criminal offence and that no reporting obligation is imposed on the affiliated company before the Licence Holder has been found guilty through a judgment which has become final. The obligation also covers employees or former employees, even if their Licence has expired, provided that the violation of the rules was committed at a time when the person was a Licence Holder, as set forth in the first sentence. The obligation also applies to tied agents and former tied agents, to the extent the violation occurred in the agency operations. It follows indirectly from the final paragraph that the affiliated company is required to conduct an initial investigation into what has occurred before any report is filed. Such an investigation should be conducted promptly, and any report should be filed as soon as possible after sufficient information has been compiled.

(Second paragraph) In those cases where the Licence Holder has switched employer, it is the former employer who is obliged to report to SwedSec in the event the Licence Holder committed a criminal offence which is connected to the business operations or in the event the employee breached the provisions of Chapter 9, sections 2 or 3, and there is reason to believe that this may result in disciplinary sanctions.

There is no maximum limit on the length of time after termination of the employment during which the affiliated company is subject to this reporting obligation. However, situations may arise in which a considerable time elapses before a violation committed by a former Licence Holder is discovered. In some individual cases, such a long period of time may have elapsed that the committed violation loses relevance. This assessment is made by the affiliated company which, in the case of doubt, may consult with SwedSec.

Examples of violations of rules which resulted in disciplinary sanctions, and therefore should be reported pursuant to this provision, are set forth in SwedSec's guidance on reporting violations of rules, which are available on SwedSec's website.

In the event the affiliated company, in its report to SwedSec, cites a violation of internal rules, such rules or relevant extracts must be appended to the report. After the affiliated company has reported the violation, SwedSec assumes responsibility for investigation of the matter. Accordingly, SwedSec may request supplementation by the affiliated company in the event the report is deficient or where any other information is lacking which is required for assessment of the matter. Failure to provide SwedSec with such information may lead to a fine; see Chapter 10, sections 10 and 11.

Section 10. An affiliated company must notify SwedSec in writing in the event it subsequently discovers that a report pursuant to section 9 should not have been filed or that information in the report was incorrect.

Section 11. An affiliated company shall notify SwedSec of the identity of a person who shall be responsible for the contacts with SwedSec. He or she shall possess requisite

expertise in securities law matters and be well acquainted with the Rules and Regulations. The notification shall contain details of the contact person's name, personal ID number, telephone number and e-mail address.

Notification pursuant to the first paragraph shall take place on the agreement regarding affiliation to SwedSec. The agreement is available on SwedSec's website. Any change of contact person details shall be sent to SwedSec by e-mail.

Commentary: In practice, just as hitherto this duty will be allocated to Compliance Officers. However, the rule does not mean that a single person must handle all contacts with SwedSec. Administrative routines concerning the licensing procedure may, for example, be delegated to other personnel. This possibility of delegation has been denoted in the wording of the rule by stating that the person shall “be responsible for the contacts.” The rule entails only an administrative responsibility. Thus, the contact person bears no personal responsibility for ensuring that the affiliated company performs its obligations under the rules.

Section 12. An affiliated company must collect from its employees Licence certificates relating to expired or revoked Licences.

Section 13. An affiliated company shall destroy Licence certificates which have been returned to it pursuant to Chapter 9, section 5 (Licence certificates returned by employees who have concluded their employment). An affiliated company must also destroy Licence certificates where the Licence has expired or been revoked, unless the revocation is temporary. If a Licence has been temporarily revoked, the Licence certificate may be returned to the employee upon termination of the revocation period.

Fees

Section 14. Affiliated companies shall pay fees set and invoiced by SwedSec. Detailed provisions regarding the amount of the fees, payment, etc. shall be issued by SwedSec.

Commentary: A current price list is available on SwedSec's website.

Chapter 9. Licence Holders' obligations

Section 1. Upon written request by SwedSec, the Licence Holder shall provide SwedSec with the information which SwedSec requests and requires for the application of these Rules and Regulations.

Section 2. Licence Holders shall comply with the laws and other statutes, as well as generally accepted practice, governing the operations. In addition, Licence Holders shall comply with SwedSec's Rules and Regulations and with the affiliated company's own internal rules insofar as such are based on laws, regulations, other statutes, general guidelines, or industry recommendations, and otherwise also act in conformity with the suitability requirements imposed for holding a Licence.

Commentary: The majority of the laws, regulations, general guidelines and industry recommendations that apply to affiliated companies are of a commercial law nature and, accordingly, are not aimed directly at employees. However, in order for the commercial law requirements to be satisfied, where appropriate the employees must heed and comply with the

rules governing the operations. The employees must, therefore, act in conformity with the Rules and Regulations, irrespective of whether such relate to them directly or only indirectly. The foregoing applies to all of the activities in which the Licence Holder engages, including activities which are not on the securities market. Cf. also the provision regarding voluntary Licences in Chapter 3, section 3.

Section 3. Licence Holders at an affiliated company as referred to in Chapter 2, section 2 shall, in addition, comply with the affiliated company's own internal rules which are based on obligations in agreements with SwedSec.

Section 4. Where the Licence Holder commences new employment at another affiliated company, at the request of such company the Licence Holder shall present an extract from SwedSec's register pursuant to Chapter 15, section 9.

Section 5. A Licence Holder who concludes his employment at an affiliated company shall return the Licence certificate to the company.

Chapter 10. Disciplinary sanctions and fines, etc.

Section 1. The following disciplinary sanctions may be imposed on Licence Holders:

- 1. Licence revocation, sections 2 and 3;**
- 2. temporary Licence revocation, section 4;**
- 3. a warning, section 6; and**
- 4. a reprimand, section 7.**

The following sanctions may be imposed on affiliated companies:

- 1. fines, sections 9 – 11; and**
- 2. exclusion, section 12.**

Revocation

Section 2. The disciplinary board may revoke the Licence where a Licence Holder has violated his obligations pursuant to Chapter 9, sections 2 and 3 or has otherwise seriously neglected the obligations incumbent upon him in the performance of his duties.

Commentary: The basis for revocation is linked to the Licence Holder's obligations pursuant to Chapter 9, sections 2 and 3. As stated in the commentary on Chapter 9, section 2, most of the laws and regulations in the securities area are aimed at companies and not directly at their employees. In many cases, correct behaviour by the employee is ensured by means of the company's internal instructions and regulations, and violation of internal rules can then entail that the Licence Holder neglects the obligations incumbent upon him in the performance of his duties. There may, however, also be situations where a particular pattern of behaviour is obvious and natural in relation to the company's obligations, e.g., according to public regulations, without this having been expressly stated in any written instruction. The affiliated companies conduct extensive operations and it is impossible, and also often undesirable, to issue express instructions governing all conceivable situations. The company is often obliged to issue certain guidelines and principles as to how the business is to be conducted. Thus, in order to ensure that the purpose underlying the provision is satisfied in full, a Licence can be revoked in the event of neglect of duties, even if this has not been expressly stipulated in

internal or external rules aimed directly at the Licence Holder. Criminal offences by a Licence Holder which are connected with the business operations, e.g. embezzlement of client funds, theft from the employer or fraud against the employer, constitute such serious neglect of duties by the Licence Holder that revocation of the Licence may be relevant.

It should be possible to apply corresponding reasoning in the case of a Licence Holder employed at a tied agent, based on the affiliated company's responsibility as regards the tied agent insofar as pertains to the agency activities.

Examples of disciplinary board decisions in which the Licence has been revoked are provided in SwedSec's guidance on reporting violations of rules.

Section 3. The disciplinary board may revoke the Licence where a Licence Holder has committed a criminal offence outside the course of his duties, or otherwise acted in such a manner that, due to personal circumstances, he or she cannot be deemed suitable to hold a Licence.

Commentary: The provision corresponds to the suitability assessment that the affiliated company is obliged to conduct in connection with an employee obtaining a Licence; cf. Chapter 8, sections 4-6. If the affiliated company subsequently considers that the Licence Holder is no longer suitable to hold a Licence in light of a committed criminal offence or the Licence Holder's personal circumstances in general, the company is obliged to report the matter to SwedSec. The criminal offences at issue here have been committed outside the workplace. The investigation will be carried out by the police and prosecutor. A considerable period of time may elapse before the affiliated company learns that the Licence Holder is suspected, or has been convicted, of a crime. The obligation to report a criminal offence committed by the Licence Holder is conditional on the affiliated company being aware of the criminal offence, and no reporting obligation is imposed on the affiliated company until the Licence Holder has been found guilty through a judgment which has become final. It is primarily economic crimes – which generally by their nature damage confidence – which may be relevant; see the commentary on Chapter 8, section 5. Other criminal activity, if deemed to be of a relatively serious nature, may also give cause to call into question the Licence Holder's suitability and thereby trigger revocation of the Licence.

Thus, the situation described here differs from the situation where a Licence Holder has committed a crime in connection with the operations, e.g. embezzlement of client funds, theft from the employer, or fraud against the employer. In such a situation, the affiliated company is able, by means of its own investigation, to clarify the facts and the affiliated company is able to report the matter to SwedSec upon discovery of the circumstance. In such situation, the circumstances might also be such that the disciplinary board can reach a decision in the matter before the issue of criminal liability has been adjudicated by the court. Upon an overall assessment of the circumstances, the board may, instead of basing a revocation on the ground that a criminal offence has been committed, conclude that the Licence Holder has seriously violated Chapter 9, sections 2 or 3, based on the evidence provided by the affiliated company.

Section 4. Where reasons exist for doing so, the disciplinary board may order a temporary revocation. Such revocation shall apply for a period determined by the disciplinary board, however not exceeding one year.

In order for a temporarily revoked Licence to become valid again, the Licence Holder must undergo the annual knowledge update which should have been carried out during the period in which the Licence was temporarily revoked.

Commentary (second paragraph): It should be noted that if a knowledge update has not been carried out, upon expiry of the revocation period the Licence shall be declared inactive.

Section 5. Where SwedSec's disciplinary committee makes the assessment that there are risks associated with a Licence Holder holding a Licence pending investigation of a matter, SwedSec's disciplinary committee may order the interim revocation of the Licence, with immediate effect. Such interim revocation shall be reviewed by the disciplinary board within not later than 30 days.

Commentary: In practice, in the event of serious violations the affiliated company will probably react immediately upon learning of the event by prohibiting the Licence Holder from continuing his work. When the event is reported to SwedSec, delay is not normally prejudicial. The reason for the provision is to provide the disciplinary committee with a tool to address the exceptional cases which might arise as a consequence of the affiliated company failing to react with appropriate promptness. For reasons of due process, the disciplinary board must review the disciplinary committee's decision within 30 days.

Warning

Section 6. The disciplinary board may issue the Licence Holder with a warning in respect of a violation:

- 1. where there are grounds for revocation but there are special circumstances which render a warning sufficient; or**
- 2. where the violation is not so serious as to justify revocation.**

Commentary (Subsection 1): 'Special circumstances' mean, for example, that a long period of time has elapsed between the date of the violation and the reporting of the violation to SwedSec, or where there are other special circumstances which make revocation appear to be too severe a measure.

Examples of disciplinary matters where Licence Holders have been issued with a warning are provided in SwedSec's guidance on reporting violations of rules.

Reprimand or waiver of sanctions

Section 7. Where the disciplinary board considers the Licence Holder's violation to be of minor importance or excusable or where there otherwise exist mitigating circumstances, the disciplinary board may issue the Licence Holder with a reprimand or entirely waive the imposition of any sanctions.

Commentary: Examples of disciplinary matters where Licence Holders have been issued with a reprimand are provided in SwedSec's guidance on reporting violations of rules.

Decision to declare the Licence invalid

Section 8. Where a Licence has been granted on erroneous grounds, the disciplinary board may declare the Licence invalid.

Commentary: The provision relates to a situation where a Licence has been granted on the basis of, for example, false or incorrect information or otherwise in any inappropriate manner.

Decisions in cases where the Licence has expired

Section 9. In a matter concerning a person whose Licence has expired, the disciplinary board must determine whether there were reasons for disciplinary sanctions and thereby determine the sanction which would have been issued had the person still been a Licence Holder.

Commentary: The aim of this rule is to allow an assessment to be made regarding violations of the rules committed by a former Licence Holder, notwithstanding that the Licence has expired, since a sanction affects the possibility to obtain a new Licence, either because a certain period of time must elapse after a revocation of the Licence or since a warning or reprimand may affect the suitability assessment which the affiliated company is required to make in accordance with Chapter 8, sections 4-6.

Fines on affiliated companies

Section 10. An affiliated company which intentionally or negligently fails to perform its obligations pursuant to Chapters 2-8 may be ordered to pay a fine to SwedSec of not less than SEK 25,000 and not more than SEK 5,000,000.

Commentary: This might be the case, for example, where, notwithstanding a reminder from SwedSec, the affiliated company has failed to Licence the group of employees whom the company has undertaken to Licence pursuant to the Rules and Regulations. One of the company's obligations is promptly to report disciplinary matters and provide information in such a matter. Such matters must be handled promptly and omitted information or incorrect information may be due to a scanty investigation or the fact that new circumstances come to light at a later stage. The affiliated company must not, however, find itself in a situation in which it is subsequently forced to pay a fine notwithstanding that it has acted with normal care in connection with the investigation which was carried out prior to reporting to SwedSec.

Section 11. SwedSec's board of directors shall decide whether a fine is to be paid and the amount of such fine.

When determining the amount of the fine, consideration shall be given to the consequences or risks of consequences which the affiliated company's acts or omissions lead to as regards Licence Holders, SwedSec, other affiliated companies or confidence in the securities market. In addition, the company's financial position shall be taken into consideration.

Before a decision is taken in the matter, the board of directors shall afford the affiliated company the opportunity to present its case. A decision to impose a fine shall state the reasons on which the decision is based.

Exclusion of affiliated companies

Section 12. In the event an affiliated company has seriously violated its obligations under the Rules and Regulations, SwedSec's board of directors may decide that the company may no longer be an affiliated company (exclusion). Prior to taking any decision in the matter, the board of directors shall afford the affiliated company an opportunity to present its case. A decision regarding exclusion must state the reasons on which the decision is based.

Dispute resolution

Section 13. Disputes between SwedSec and an affiliated company that arise relating to these Rules and Regulations shall be conclusively determined through arbitration in accordance with the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce.

The arbitral tribunal shall comprise three arbitrators.

The seat of arbitration shall be Stockholm. The proceedings shall be conducted in the Swedish and the dispute shall be governed by Swedish law.

Commentary: Disputes that arise might involve, for example, a dispute as to whether a company is liable to pay a fine, or whether there are grounds for exclusion from SwedSec. The procedure, i.e. the way in which arbitrators are appointed and the way in which the procedure is initiated, etc. is in accordance with the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. The Rules are available on the Chamber of Commerce's website.

Chapter 11. The disciplinary board

Section 1. There is a disciplinary board to determine issues of a disciplinary nature and invalidity of Licences pursuant to Chapter 10, section 8 ('disciplinary matters'). Provisions regarding the procedure before the disciplinary board are set forth in Chapter 12, sections 9-23.

Section 2. The chairman, deputy chairman and other members of the disciplinary board shall be appointed by SwedSec's board of directors.

Section 3. The disciplinary board shall be convened by the chairman, who shall determine the time and place for the meetings.

Chapter 12. Disciplinary matters

Section 1. The preparation and handling of disciplinary matters shall take place promptly and in a manner which guarantees due process. A disciplinary matter shall be investigated to the extent dictated by the nature of the matter.

Handling of disciplinary matters at SwedSec

Section 2. A disciplinary matter may be initiated at SwedSec through a report from an affiliated company or on SwedSec's own initiative.

Commentary: Other interested parties may notify SwedSec of a Licence Holder's violation of rules, etc. It is then up to SwedSec to determine whether a disciplinary matter is to be commenced on SwedSec's initiative.

Section 3. A disciplinary matter shall be reported in writing, containing a description of the circumstances on which the report is based. The written documents invoked must be appended to the report. A report must contain at least the following:

- 1. a description of the violation of rules committed by the Licence Holder;**
- 2. an extract from the internal rules which the Licence Holder is alleged to have violated;**
- 3. a description of the consequences of the violation of the rules, e.g. financial loss incurred by clients or the company.**

Commentary: In order for the disciplinary proceedings to function, a detailed report from the company is required which describes the violations of rules committed by the Licence Holder: when they were committed, and the extent and frequency thereof. Prompt handling requires that the report be as complete as possible from the start.

Section 4. Where a report does not satisfy the requirements set forth in section 3 or is otherwise incomplete, SwedSec shall afford the company an opportunity to supplement its report.

SwedSec may dismiss a report:

- 1. if supplementation is not received within the prescribed time; or**
- 2. if the report, even after supplementation is received, is so deficient that it cannot serve as a basis for continued handling of the matter.**

Section 5. SwedSec's disciplinary committee is charged with the task of deciding whether a matter shall be referred to the disciplinary board for assessment or that the matter shall be dismissed, and shall take decisions regarding interim revocation of licences pursuant to Chapter 10, section 5. The disciplinary committee's decision to refer a matter to the disciplinary board shall include proposed disciplinary sanctions.

SwedSec's board of directors appoints the members of the disciplinary committee.

Section 6. Before the disciplinary committee reaches its decision in accordance with the provisions of section 5, the affiliated company and the Licence Holder shall receive all documents in the matter and, unless manifestly unnecessary, shall be afforded an opportunity to submit comments thereon.

Commentary: Documents are sent only to the affiliated company and the Licence Holder; however, not to other parties who, for example, have reported a matter to SwedSec, since they are not parties in the matter.

Section 7. After the disciplinary committee has reached its decision, the committee shall notify the decision to the affiliated company and the Licence Holder. Where the decision entails referral of the disciplinary matter to the disciplinary board, the chairman of the disciplinary board shall also be notified through the committee's decision being sent to the chairman.

Commentary: The disciplinary committee's decisions are also not communicated to parties other than the Licence Holder and the affiliated company.

Section 8. Where the disciplinary committee has decided to dismiss a matter, the affiliated company which is affected by the decision may submit a request to the disciplinary board to review the committee's decision. A request for review must be submitted in writing to the disciplinary board, and must have been received by SwedSec within three weeks of the date on which the decision was issued. In respect of such a matter, the disciplinary board shall apply the procedure stated in sections 9-23.

Handling of disciplinary matters before the disciplinary board

Section 9. Disciplinary matters shall be taken up for adjudication by the disciplinary board after the chairman has received the disciplinary committee's decision from SwedSec in accordance with section 7.

Section 10. The written documents which are invoked must be appended to the notice pursuant to section 7. The board may demand that documents in the matter be drafted in, or translated into, Swedish.

Section 11. Where the material received by the disciplinary board from SwedSec is incomplete, the disciplinary board shall afford SwedSec an opportunity to supplement the material. The Board may dismiss a matter where:

- 1. supplementation is not received within the prescribed time; or**
- 2. the material is so deficient that it cannot serve as a basis for the further handling of the matter.**

Section 12. The disciplinary board may procure further evidence where there are reasons for so doing.

Section 13. The proceedings in the disciplinary board shall take place in writing. SwedSec and the Licence Holder shall be afforded an opportunity to present their comments orally to the board.

Where necessary for adjudication of the matter, at the request of SwedSec or the Licence Holder the chairman of the disciplinary board may summon the affiliated company to answer questions at an oral hearing before the board.

Section 14. A matter may not be adjudicated without SwedSec, the affiliated company and the Licence Holder having been provided with all information in the matter and afforded an opportunity to comment thereon.

Section 15. When adjudicating a matter, the disciplinary board shall consist of no fewer than five members. Of these members, the chairman shall have legal training and experience as a judge. At least two members shall be well versed in conditions on the securities market. Decisions which do not include a final adjudication of the matter may be taken by the chairman alone.

Section 16. The board's decisions shall be reached by majority vote. In the event of a tied vote, the chairman shall have the casting vote. Voting shall take place where differences of opinion arise in conjunction with deliberations regarding a decision. The provisions of section 18 of the Administrative Procedure Act (SFS 1986:223) shall thereupon apply, where appropriate.

Section 17. The disciplinary board's decisions shall be based on the contents of the documents and facts that have otherwise come to light in the matter. The decision shall be issued in writing and state the grounds for the decision.

Section 18. On the day of issuance, the decision shall be sent to SwedSec, the Licence Holder and the affiliated company at which the Licence Holder is employed, as well as the company which reported the matter. Any dissenting opinion shall be appended to the decision.

Commentary: Parties other than the affiliated company may read the decision through publication by SwedSec.

Section 19. Minutes shall be kept of meetings of the disciplinary board. The minutes shall note the members of the disciplinary board, SwedSec, the Licence Holder and the reporting party, the nature of the matter and any dissenting opinion. Minutes need not, however, be prepared where the information is set forth in a separately prepared decision.

Publication

Section 20. Where disciplinary sanctions have been issued, SwedSec may issue a press release containing information about the decision. The chairman of the disciplinary board and the affiliated company shall be afforded an opportunity to provide comments on the press release.

The decision in its entirety shall thereafter be published by SwedSec without identifying details.

Licence Holder's counsel

Section 21. The Licence Holder shall be entitled to retain counsel or a representative in a disciplinary matter. Costs for counsel/the representative shall be reimbursed in a certain amount by SwedSec in accordance with the detailed instructions issued by SwedSec. A request for compensation (bill of costs) must have been received by SwedSec

within 30 days of the date on which the disciplinary matter is conclusively resolved and must contain a description of the work and information regarding the time expended on the engagement.

Commentary: Instructions regarding compensation to counsel are available on SwedSec's website.

Conflicts of interest

Section 22. Any member of the disciplinary board or disciplinary committee who is to address a matter shall be deemed to have a conflict of interest

- 1. where the matter concerns such person or his spouse, parents, children, or siblings or some other closely related person;**
- 2. where the outcome of the matter may be expected to entail a particular benefit for, or detriment to, the member personally or other closely related person;**
- 3. where he, or some other closely related person, is a representative of the person whom the matter concerns or someone who may expect a particular benefit or detriment as a result of the outcome of the matter;**
- 4. where he has acted as counsel or received payment to represent a party in the matter; or**
- 5. where other particular grounds exist in the matter which are likely to detrimentally affect confidence in his impartiality in the matter.**

Section 23. Any person who has a conflict of interest may not handle a matter unless the issue of impartiality is manifestly irrelevant. A person who has a conflict of interest may, however, undertake steps which no other person is able to undertake without unreasonable delay. Any person who is aware of a circumstance which may be assumed to entail a conflict of interest for such person shall personally raise the issue of conflict of interest. Where an issue of conflict of interest has arisen in respect of a person and no replacement has been appointed in his stead, the board or the committee shall promptly decide the issue of conflict of interest. The person in respect of whom a conflict of interest has been raised may not participate in the assessment of the issue of conflict of interest.

Chapter 13. Review board.

Section 1. The board of directors of SwedSec shall appoint a review board. The members shall possess comprehensive and broad knowledge of the securities market.

Section 2. The review board shall determine the proficiency requirements which shall apply as regards the licensing examination and the annual knowledge updates. The review board shall ensure that the requirements correspond to developments on the financial market and that the licensing examination corresponds to the proficiency requirements.

Section 3. SwedSec shall inform affiliated companies regarding proficiency requirements.

Commentary: Proficiency requirements are available on SwedSec's website.

Chapter 14. Licensing examinations and Licence certificates

Licensing examinations

Section 1. SwedSec shall draw up licensing examinations as well as procedures for carrying out and grading examinations.

SwedSec shall provide a licensing examination for management and control functions, a licensing examination for advisers, and a licensing examination for specialists.

Commentary: Chapter 8, section 1 sets forth which licensing examination an employee should undergo in order to hold the positions and perform the work duties set forth in Chapter 3, section 1.

Section 2. Every person shall be entitled to take a licensing examination, against payment of a fee.

Commentary: However, only employees of affiliated companies may be granted licenses.

Section 3. SwedSec shall provide opportunities to take a licensing examination to the extent required, and at the time and place determined by SwedSec.

Section 4. SwedSec's website shall provide information regarding the time and place for licensing examinations, and participation requirements. Applications to take an examination shall be made via the online service.

Section 5. Assessment of whether a licensing examination is passed shall be made accordance with SwedSec's established procedures. In respect of Licence applications, a pass grade shall apply for five years.

Section 6. A written certificate that an examination has been passed may be obtained via the online service.

Licence certificates

Section 7. SwedSec shall issue a Licence certificate upon application by a person who fulfils the requirements for a Licence. The Licence certificate shall contain information regarding the Licence Holder and the affiliated company.

Commentary: SwedSec imposes no requirement that a Licence certificate be issued in respect of a Licence Holder.

Section 8. In the event of the loss of a Licence certificate, the Licence Holder may obtain a new certificate upon application to SwedSec, upon payment of a fee.

Chapter 15. Confidentiality and register

Confidentiality

Section 1. SwedSec may not, without authorisation, disclose or utilise information regarding affiliated companies, Licence Holders, or the business circumstances or personal circumstances of any other party, which SwedSec has obtained as a consequence of the performance of its duties pursuant to these Rules and Regulations.

A person who is, or has been, connected to SwedSec as an employee or service provider may not, without authorisation, disclose or utilise information obtained in the course of the employment or service with respect to the business circumstances or personal circumstances of affiliated companies, Licence Holders or any other party.

SwedSec shall ensure that employees and service providers sign confidentiality undertakings with the content stated in the second paragraph.

Commentary: The provision is similar to the duty of confidentiality provisions set forth in Chapter 1, section 10 of the Banking and Financing Business Act (SFS 2004:297) and Chapter 1, section 11 of the Securities Market Act, but applies to a wider group of individuals than those rules. The concept of non-authorisation is to be interpreted in the same way as in the banking business legislation, i.e. in the event SwedSec discloses information pursuant to a legal obligation to do so, SwedSec is not deemed to be acting without authorisation. An example of this is information to the Swedish Financial Supervisory Authority which the Authority has requested pursuant to Chapter 6, section 1(a) of the Financial Instruments Trading Act (SFS 1991:980).

Section 2. SwedSec shall draft internal instructions regarding the handling and storage of documents provided to SwedSec which contain information classified as confidential.

Register

Section 3. SwedSec shall maintain a register of information concerning Licence Holders and former Licence Holders.

Commentary: SwedSec shall maintain a register in the online service. In the online service, information shall be saved regarding, e.g. the SwedSec examination(s) taken by Licence Holders, annual proficiency updates, exemptions, Inactive Licences and disciplinary sanctions.

Section 4. Information about Licence Holders with active Licences, regarding the Licence Holder's name and employer, shall be publicly available record on SwedSec's website.

Commentary: Information regarding holders of Inactive Licences and historic information regarding revoked and expired Licences is not available on the website; it is, though, saved by SwedSec for a certain period of time.

Section 5. Information regarding disciplinary sanctions shall be saved in the register for three years from the date on which the disciplinary sanction was issued.

Section 6. Information regarding pending disciplinary matters shall be saved in the register as from the commencement of the matter until the disciplinary matter is concluded.

Section 7. Information as to whether or not termination of the Licence Holder's employment was connected to a reported violation shall be saved in the register for three years from the date on which the information was provided.

Section 8. Information pursuant to sections 5 -7 is available to the Licence Holder personally.

Section 9. A Licence Holder shall be entitled to obtain an extract from the register evincing disciplinary sanctions, pending disciplinary matters, and information as to whether or not termination of the Licence Holder's employment was connected to a reported violation, or which shows that no such information is contained in the register. The Licence Holder may print out such an extract in the online service.

Commentary: Information regarding disciplinary sanctions and pending matters does not, *per se*, constitute such sensitive information or information regarding criminal offences and penal sanctions the processing of which is specifically regulated in the Personal Data Act; see sections 13 and 21 of the Personal Data Act (1998:204). On the other hand, information in certain decisions from the disciplinary board may constitute such information. The information which must be available in the register comprises solely information regarding issued disciplinary sanctions, not the reason for the sanction. Similarly to other personal data, the registration must serve a purpose. In this case, the purpose is to allow affiliated companies, through monitoring pursuant to Chapter 8, section 8, to learn of sanctions and pending matters since these factors must be taken into account in the suitability assessment pursuant to Chapter 8, sections 4-5, and so that SwedSec shall take into account previous disciplinary sanctions when considering new matters, and to monitor that there are no impediments to the granting of a new Licence as set forth in Chapter 4, section 3. The information may be saved no longer than is justified in light of the purpose, and three years may be considered a reasonable period of time.

Chapter 16. Amendments to the Rules and Regulations

Amendments to the Rules and Regulations

Section 1. The Rules and Regulations are adopted by SwedSec's board of directors and, unless special circumstances otherwise dictate, are reviewed at the end of every year and half-year. Decisions regarding any amendment to the Rules and Regulations shall be posted on SwedSec's website. The website also states when a new version of the Rules and Regulations shall enter into force.

Section 2. Prior to any amendments to the Rules and Regulations, SwedSec shall canvass the opinions of the affiliated companies.

Commentary: This normally takes place through proposed amendments being distributed for consultation to affiliated companies in ample time prior to possible adoption of the proposed amendments.

Entry into force

The Rules and Regulations shall enter into force on 1 January 2015.