



*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.

**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 Investment 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; or
- 4.** insurance mediation pursuant to the Insurance Mediation Act (SFS 2005: 405) which provides financial advice regarding life assurance containing a savings element.

**A Swedish branch of a foreign company which conducts operations equivalent to those stated in subsections 1-4 may affiliate to SwedSec.**

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.

(Subsection 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 excepted. 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.”

**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 1-16; 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.

#### *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;**
- 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.**

#### *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 and its activities are predicated; 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 7 (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 7 shall terminate 36 months after the effective date of termination;**
- 3. The obligation to comply with decisions regarding fines and to pay fines pursuant to Chapter 10, sections 9-11 in respect of omissions during the period in which the company was affiliated shall remain in force after the effective date of termination.**
- 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 an insurance intermediary;**
- 2. the executive officer in charge of material parts of an investment firm's Swedish investment services;**
- 3. the executive officer in charge of material parts of a fund management company's Swedish fund or asset management business;**
- 4. the executive officer in charge of an insurance company's Swedish investment management business;**
- 5. 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 at an insurance company;**
  - d. legal entities which are insurance intermediaries;**
- 6. risk managers or holders of other positions within material control functions who spend 50 per cent or more of their work time within the areas referred to in subsections 2-4;**

#### **Advisers – category B**

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

#### **Specialists – category C**

- 9. a person engaged in discretionary portfolio management of client funds;**
- 10. a person engaged in the management of investment funds;**
- 11. 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;**

- 12. a person who is authorised to execute transactions on exchanges or the trading systems of MTFs;**
- 13. a person who develops investment analyses;**
- 14. a person who designs investment products focused on a group which may include retail clients;**
- 15. a person who engages in the provision of advisory services within corporate finance business; or**
- 16. 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.**

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. With respect, e.g. to subsections 2-4, 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, the licence requirement does not apply to lawyers, auditors and consultants. However, Chapter 2, section 4 applies to tied agents.

(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.

(Subsection 2) It may involve those persons at an investment firm who are heads of proprietary trading, portfolio management, client trading, analysis, corporate finance and back office (securities administration).

(Subsections 5 and 6) As regards the compliance officer and risk manager 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 obligatory 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 requirement extend to centrally placed lawyers who are not directly involved in the day-to-day operations within the aforementioned business areas.

(Subsection 7) 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. 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 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, and insurance intermediaries.

(Subsection 8) The terms ‘financial advice’ and ‘life assurance containing a savings element’ are addressed in the commentary on Chapter 2, section 1, subsection 4.

(Subsection 11) 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 13) Upon application of the rule, the intention is to such investment analyses as stated in Chapter 11, section 8 FFFS 2007:16.

(Subsection 14) 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. Employees who are subject *per se* to the Licence requirement in accordance with section 1, subsections 1-15 but only have responsibility for, or work exclusively with, management, analyses or execution of transactions involving fixed income or currency-related financial instruments are exempted from the requirement to hold a Licence.**

Commentary: The provision corresponds to the provisions which applied prior to 1 January 2012. A person who engages in the provision of financial advice or investment advice cannot invoke this exemption provision; instead, such person is subject to the obligatory Licence requirement pursuant to Chapter 3, section 1, subsection 7.

## *Voluntary Licence*

### **Section 3. Employees other than those enumerated in section 1, subsections 1-16 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. License 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 attested 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 the commentary on Chapter 8, section 4.

(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 Licences. 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 8, 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 8. 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 undergo a new licensing examination in order to obtain a Licence.**

**Section 5. The designation "SwedSec-licensed" or equivalent may be used only when a Licence Holder whose Licence is not inactive performs work duties at an affiliated company or at a tied agent.**

Commentary: What is intended is 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. A holder of an Inactive Licence may not call himself "SwedSec-licensed".

## **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 e-learning. 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 e-learning 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 e-learning 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.**

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 Holder requires an exemption. The question of expiry of the Licence 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**

**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 at the request of the company*

**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, 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 or on which the Licence Holder is released from work duties. The affiliated company shall, via the online service, report the date on which the employment terminated or the Licence Holder was released from work duties.

*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

1. 1 December of the year in which the Licence Holder last carried out an annual knowledge update; or
2. in the event the Licence Holder has not carried out any annual knowledge update, from the day on which the Licence Holder took a licensing examination; or
3. the day on which the Licence Holder's employment at an affiliated company terminated.

*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.** Where an inactive Licence is to be activated, the Licence Holder must have carried out annual knowledge updates pursuant to Chapter 5 in respect of the year or years which have passed since the Licence Holder took the licensing examination.

**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.

## Chapter 7. Exemptions

### *Exemptions from the licensing examination*

**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.**

Commentary: 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. The provision is to be applied extremely restrictively. It is not intended to reintroduce a possibility to obtain a Licence based on long experience. The provision can be applied in respect of persons who have satisfied corresponding proficiency requirements in another country.

### *Exemption from the Licence requirement and the requirement of a particular licensing examination*

**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, or from the requirement that the licence be based on a particular licensing examination pursuant to Chapter 8, section 1, second or third paragraphs.**

**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 an obligatory licence requirement or a requirement for a particular licensing examination. 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 11 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.

(Second paragraph) The provision can be applied, e.g. when the Licence requirement is based on the rule in Chapter 3, section 1, subsections 1-4, 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 the annual knowledge update.**

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. However, a declaration of inactivity means that the Licence Holder may not perform certain work duties (see Chapter 3, section 1). 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. Without the exemption possibility, the Licence Holder would be unable to perform his work duties immediately upon return from absence. 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. Any extension of the time period which may be relevant should not exceed approximately one week per annual knowledge update. In other cases, the main rule 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.**

Applications shall be made via the online service.

### **Chapter 8. Obligations of affiliated companies**

#### *Obligations to SwedSec, clients and employees*

#### **Section 1. An affiliated company shall ensure that only employees holding a Licence which is not inactive, or employees with an exemption from the Licence requirement, or an exemption from the requirement that the licence be based on a particular licensing examination, hold the positions or perform the work duties stated in Chapter 3, section 1.**

**The holder of a Licence pursuant to SwedSec's licensing examination for advisers or in accordance with item 1 of the transitional provisions in these Rules and Regulations may perform the work duties set forth in category B in Chapter 3, section 1.**

**The holder of a Licence pursuant to SwedSec's licensing examination for the securities market or in accordance with an earlier transitional provision (experience Licence) may hold the positions and perform the work duties set forth in categories A, B (apart from insurance mediation pursuant to Chapter 3, section 1, subsection 8) and C in Chapter 3, section 1.**

Commentary: An affiliated company's responsibility extends to both its own employees and employees of tied agents; see Chapter 2, section 4.

A company which affiliates to SwedSec must immediately seek an exemption in respect of those employees who, pursuant to Chapter 3, section 1, 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.

“An earlier transitional provision (experience Licence)” in the third paragraph 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 whose Licence is not inactive.**

*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.

**Section 4. In order to apply for a Licence in respect of an employee, an affiliated company must certify, via the online service, that the applicant is employed by the affiliated company and that the employee is suitable to hold a Licence.**

Commentary: The suitability assessment must at all times be comprehensive and provide the affiliated company with a basis for making a relevant assessment of the employee's or tied agent's conditions for being a Licence Holder, irrespective of whether he or she previously held a Licence at another affiliated company. There may be situations where a person whose suitability is to be assessed previously held a Licence which has expired or become inactive. Also in such situations, it is important that the affiliated company verify the register extract in accordance with section 6. SwedSec has issued a recommendation, which is available on SwedSec's website, as guidance for the performance of suitability assessments. The attention of affiliated companies is drawn to the fact that the affiliated company must conduct an assessment, in accordance with statutory and regulatory provisions, of the behaviour of any person who is to engage in insurance mediation.

**Section 5. 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 7.**

**Section 6. Where an affiliated company recruits a person who holds a Licence, the company shall verify the register extract which the Licence Holder is required to provide; 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 7. An affiliated company shall immediately 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; or**
- 2. committed a criminal offence or otherwise acted in such a manner that, based on his personal circumstances, the Licence Holder cannot be deemed suitable to hold a Licence**

**and there is reason to believe that this may result, or might have resulted, in disciplinary sanctions pursuant to Chapter 10.**

**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. Disciplinary sanctions may also be relevant where the Licence Holder has committed a criminal offence or, due to his personal circumstances, otherwise appears to be unsuitable to be a Licence Holder. The reporting obligation arises if there is reason to believe that a violation may result in a disciplinary sanction. 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.

(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.

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, section 9.

**Section 8. An affiliated company must notify SwedSec in writing in the event it subsequently discovers that a report pursuant to section 7 should not have been filed or that information in the report was incorrect.**

**Section 9. 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 form for affiliation to SwedSec. The form 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 10. An affiliated company must return to SwedSec licence certificates relating to expired or revoked licences.**

**Section 11. An affiliated company shall destroy licence certificates which are returned to it pursuant to Chapter 9, section 5 (licence certificates returned by employees who have concluded their employment).**

## *Fees*

**Section 12. Affiliated companies shall pay each year 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 governing the operations as well as generally accepted practices on the securities market. 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.**

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**

**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. 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 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, section 4. 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 affiliated company is not required to report that the Licence Holder has committed a crime until the Licence Holder has been found guilty through a judgment which has become final. It is primarily economic crimes which may be relevant; see the examples in the recommendation regarding suitability assessments.

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 license 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.

### *Decisions in cases where the Licence has expired*

**Section 8. 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, section 4.

### *Fines on affiliated companies*

**Section 9. An affiliated company which intentionally or negligently fails to perform its obligations pursuant to Chapter 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 license the group of employees whom the company has undertaken to license 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 10. 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, and the company's financial position.**

**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.**

**Section 11. Disputes regarding fines shall be determined conclusively by arbitrators. The affiliated company and SwedSec shall appoint arbitrators from among the members of the disciplinary board. When considering the issue of a fine, where appropriate the procedure before the disciplinary board as stated in Chapter 12 shall be applied.**

#### *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.**

### **Chapter 11. The disciplinary board**

**Section 1. There is a disciplinary board to determine issues of a disciplinary nature. 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 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 or that the matter shall be dismissed, and shall take decisions regarding interim revocation of licences pursuant to Chapter 10, section 5.**

**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 shall 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. However, where the decision entails revocation of a Licence, upon request the name of the affiliated company involved and the Licence Holder may be withheld.**

#### *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 the securities market and a licensing examination for advisers.**

Commentary: Chapter 8, section 1 set forth which licensing examination an employee must 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.**

**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 corresponds 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. 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 all Licence Holders and former Licence Holders.**

**Section 4. Information regarding Licence Holders whose Licences are not inactive, including the Licence Holder's name and employer, shall be public record.**

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 five 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 five years from the year in which the information was provided.**

**Section 8. Information pursuant to sections 5 or 6 shall be available only to the Licence Holder personally and the affiliated company at which the Licence Holder is employed.**

**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, it is to allow affiliated companies to learn of sanctions and pending matters regarding prospective employees, and so that SwedSec shall take into account previous disciplinary sanctions when considering new matters. The information may be saved no longer than is justified in light of the purpose, and five 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.

### **Enter into force and transitional provisions**

**The Rules and Regulations shall enter into force on 1 January 2013.**

- 1. A person who**
  - a. on 31 January 2013 satisfies the Swedish Financial Supervisory Authority's requirements for passing a proficiency test regarding financial advice to consumers or investment advice to consumers; and**
  - b. on 31 January 2013 satisfies the Swedish Financial Supervisory Authority's requirements for passing a proficiency test regarding insurance mediation; and**
  - c. not later than 30 November 2013 has passed an entrance test; and**
  - d. otherwise satisfies the requirements in Chapter 4, section 1, subsections 1-2 and Chapter 4, section 1, subsections 4-5**

**shall, following application to SwedSec by the affiliated company, be granted a licence pursuant to category B in Chapter 3, section 1.**

**An application for a licence as stated in the first paragraph must be received by SwedSec not later than 1 January 2014.**

**The annual knowledge update requirement in Chapter 5, section 1 shall not apply in 2013 with respect to a person who has passed an entrance test.**

**This provision shall apply to those companies which are affiliated to SwedSec on 1 January 2013.**

Commentary: Licences pursuant to this transitional provision are based – in accordance with items a and b – on the employee having taken proficiency tests other than those provided by SwedSec. The affiliated company is responsible for ensuring that such tests satisfy the requirements in the Swedish Financial Supervisory Authority's regulations regarding advice (see Chapter 2 FFFS 2004:4 and Chapter 16, sections 2-8 FFFS 2007:16) and insurance mediation (Chapter 2 FFFS 2005:11).

The entrance test is in the form of E-learning and control questions.

**2. Those companies which are affiliated to SwedSec on 1 January 2013 shall, commencing 1 January 2014, ensure that employees performing the work duties set forth in category B of Chapter 3, section 1, hold a Licence which is not inactive or that the employee is covered by the exemption rules set forth in Chapter 8, section 1, first paragraph.**

Commentary: The transitional provision does not mean that SwedSec in any way grants exemptions from the Swedish Financial Supervisory Authority's requirement for a passed proficiency test for a person whose work duties include the provision of advice. On the other hand, the provision may be relevant for a person who, for example, provides advice and has already passed a proficiency test for investment advice in accordance with the Swedish Financial Supervisory Authority's requirements, but has not yet passed a licensing examination for advisers. The foregoing also applies correspondingly with respect to financial advice and insurance mediation.