



**SECURITIES AND FUTURES COMMISSION**  
證券及期貨事務監察委員會

## **Licensing Handbook**

April 2017



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## Part I Do you need a licence or registration?

### Chapter 1 Introduction

- 1.1 This Handbook provides general information of licensing and registration matters under the Securities and Futures Ordinance (SFO) (Chapter 571) administered by the Securities and Futures Commission (SFC).
- 1.2 Any person carrying on regulated activities in the securities and futures markets and the non-bank retail leveraged foreign exchange market in Hong Kong has to be licensed or registered with the SFC, unless a specific exemption is applicable.
- 1.3 **It is a serious offence to carry out regulated activity in Hong Kong or actively market to the investing public of Hong Kong any services which constitute a regulated activity without the required licence or registration.**
- 1.4 The SFC maintains a register of licensed corporations, licensed representatives, and registered institutions at <http://www.sfc.hk/publicregWeb/searchByName?locale=en>. The Hong Kong Monetary Authority (HKMA) maintains a register of relevant individuals engaged by registered institutions at <http://apps.hkma.gov.hk/cgi-bin/hkma/eng/ereg.pl>.
- 1.5 Whilst it is believed that this Handbook provides an accurate overview of the licensing and registration requirements, it is not intended to deal with all situations. Further information is available at <http://www.sfc.hk>. For more precise guidance, you should consult your own professional advisers and refer to the SFO.
- 1.6 Enquiries on licensing related matters can also be made to the SFC:
- ❖ By post:  
Licensing Department  
Intermediaries Division  
Securities and Futures Commission  
35th Floor, Cheung Kong Center  
2 Queen's Road Central  
Hong Kong
  - ❖ By e-mail: [licensing@sfc.hk](mailto:licensing@sfc.hk)
  - ❖ Via the SFC Infoline (24 hours): 2231-1222  
  
To record your message,  
press **1119** after connecting to the  
Infoline.



- 1.7 Authorized financial institutions<sup>1</sup> having any query concerning registration matters should first contact the responsible case officer in the Banking Supervision Department of the HKMA.

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<sup>1</sup> “Authorized financial institution” means an authorized institution as defined in section 2(1) of the Banking Ordinance (i.e. a bank, a restricted licence bank or a deposit-taking company).



## Chapter 2 Do you need a licence or registration?

### 2.1 Types of regulated activity

2.1.1 Schedule 5 to the SFO stipulates 10 types of regulated activity and provides a detailed definition for each of them. These activities are:

- ❖ Type 1 Dealing in securities
- ❖ Type 2 Dealing in futures contracts
- ❖ Type 3 Leveraged foreign exchange trading
- ❖ Type 4 Advising on securities
- ❖ Type 5 Advising on futures contracts
- ❖ Type 6 Advising on corporate finance
- ❖ Type 7 Providing automated trading services
- ❖ Type 8 Securities margin financing
- ❖ Type 9 Asset management
- ❖ Type 10 Providing credit rating services

2.1.2 The definition of each type of regulated activity in Schedule 5 to the SFO is available at <http://www.elegislation.gov.hk>.

### 2.2 General requirements

2.2.1 Broadly speaking, you need a **licence** if you are not an authorized financial institution<sup>1</sup> and:

- ❖ you are a corporation carrying on a business in a regulated activity in Hong Kong (section 114(1) and (2) of the SFO);
- ❖ you are a corporation actively marketing, whether by yourself or another person on your behalf and whether in Hong Kong or from a place outside Hong Kong, to the public any services that you provide, which would constitute a regulated activity if provided in Hong Kong (section 115 of the SFO)

See also [FAQ \("Actively markets" under section 115 of the SFO\)](#); or

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<sup>1</sup> "Authorized financial institution" means an authorized institution as defined in section 2(1) of the Banking Ordinance (i.e. a bank, a restricted licence bank or a deposit-taking company).



- ❖ you are an individual performing a regulated function<sup>2</sup> for your principal which is a licensed corporation in relation to a regulated activity carried on as a business. In that case, you have to be a *licensed representative* accredited to your principal (section 114(3) and (4) of the SFO). In addition, if you are an executive director<sup>3</sup> of that corporation, you also need to be approved as a *responsible officer* (section 125(1)(a) of the SFO).

2.2.2 You need a **registration** if you are an authorized financial institution<sup>1</sup> and:

- ❖ you carry on a business of regulated activity other than Type 3 (leveraged foreign exchange trading) and Type 8 (securities margin financing) regulated activities. In that case, you have to be a *registered institution* (section 114(1) and (2) of the SFO); or
- ❖ you actively market, whether by yourself or another person on your behalf and whether in Hong Kong or from a place outside Hong Kong, to the public any services that you provide, which would constitute a regulated activity if provided in Hong Kong. In this case, you have to be a *registered institution* (section 115 of the SFO).

2.2.3 Relevant individuals who perform regulated functions in relation to regulated activities for registered institutions (e.g. bank staff working in the securities dealing department) are not required to be licensed or registered with the SFC. However, their names have to be entered in the register maintained by the HKMA if they are to perform regulated activities. That register is available on the HKMA's web site (<http://apps.hkma.gov.hk/cgi-bin/hkma/eng/ereg.pl>).

2.2.4 Licensed corporations and registered institutions are referred to as "intermediaries". Sole proprietorship or partnership is not an acceptable form of business structure for the purposes of licensing.

## 2.3 Exemptions

2.3.1 This part gives an overview of some situations in which exemption from the licensing requirements may apply under the SFO. You should refer to the SFO or consult your professional advisers if you need guidance specific to your case.

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<sup>2</sup> "Regulated function", in relation to a regulated activity carried on as a business by any person, means any function performed for or on behalf of or by arrangement with the person relating to the regulated activity, other than work ordinarily performed by an accountant, clerk or cashier.

<sup>3</sup> As defined in section 113(1) of the SFO, "executive director", in relation to a licensed corporation, means a director of the corporation who –  
(a) actively participates in; or  
(b) is responsible for directly supervising,  
the business of a regulated activity for which the corporation is licensed.





- 2.3.2 For simplicity, the terms “licence” and “licensed” in rest of this chapter bear the same meaning as “registration” and “registered” respectively unless otherwise specified.

### **Incidental exemption**

- 2.3.3 You may not be required to be licensed for certain regulated activities if such activities are performed wholly incidental to your carrying out of another regulated activity for which you are already licensed. Various factors are relevant in determining whether an incidental exemption is applicable to certain activity, for example whether the activity is subordinate to the carrying on of the other regulated activity for which the licensed corporation is or will be licensed, whether discrete fees are charged for the activity, and whether the activity constitutes a major part of the licensed corporation’s business. An incidental exemption may apply in the following circumstances:

#### **Licensed for Type 1 regulated activity and carry out certain other regulated activities**

- 2.3.4 You are licensed for Type 1 regulated activity (dealing in securities) and you wish to carry out Type 4 (advising on securities), Type 6 (advising on corporate finance) and/or Type 9 (asset management) regulated activity. You do not need to be licensed for Types 4, 6 and 9 provided that these activities are carried out wholly incidental to your securities dealing business. This exemption normally applies to stockbrokers who provide investment advice or manage discretionary accounts for their securities clients.

#### **Licensed for Type 2 regulated activity and carry out certain other regulated activities**

- 2.3.5 You are licensed for Type 2 regulated activity (dealing in futures contracts) and you wish to carry out Type 5 (advising on futures contracts) and/or Type 9 (asset management) regulated activity. You do not need to be licensed for Types 5 and 9 provided that these activities are carried out wholly incidental to your futures dealing business. This exemption normally applies to futures brokers who provide investment advice or manage discretionary accounts for their futures clients.



### **Licensed for Type 9 regulated activity and carry out certain other regulated activities**

- 2.3.6 You are licensed for Type 9 regulated activity (asset management) and you wish to carry out Type 1 (dealing in securities), Type 2 (dealing in futures contracts), Type 4 (advising on securities) and/or Type 5 (advising on futures contracts) regulated activity. You do not need to be licensed for these regulated activities provided that they are carried out solely for the purposes of your asset management business (for Types 4 and 5, such asset management business must involve the management of a portfolio under a collective investment scheme). This exemption normally applies to fund managers who place trade orders to dealers or provide investment advice/research reports in the course of managing their clients' portfolios of securities and/or futures contracts.

### **Securities dealer - margin financier exemption**

- 2.3.7 If you are licensed for Type 1 regulated activity (dealing in securities), you need not separately be licensed for Type 8 regulated activity (securities margin financing) to carry out securities margin financing activities for your clients. However, you would need to satisfy a more stringent financial resources requirement in terms of paid-up capital in order to do so (see paragraph 4.2.17). This exemption normally applies to stockbrokers who also provide margin financing facilities to their securities clients.
- 2.3.8 Please note that in any event, authorized financial institutions are not required to be registered for Type 8 regulated activity to carry out securities margin financing activities.

### **Credit rating services**

- 2.3.9 If you intend to prepare credit ratings for dissemination to the public or for distribution by subscription in Hong Kong or elsewhere, you are required to be licensed for Type 10 regulated activity.
- 2.3.10 However, if a firm prepares credit ratings only for its internal use, such as a bank's internal systems for assessing counterparty risks, it is unlikely that the firm will be regarded as "providing credit rating services" for the purposes of the SFO because the credit ratings would neither be intended for dissemination to the public or distribution by subscriptions, whether in Hong Kong or elsewhere, nor reasonably expected to be so disseminated or distributed.
- 2.3.11 Similarly, a firm (such as a commercial credit reference agency) is unlikely to be required to be licensed for Type 10 regulated activity if it only gathers, collates, disseminates or distributes information concerning the indebtedness or credit history of any entity other than an individual. Consumer credit reference agencies are also excluded from the regulatory regime because the definition of "credit ratings" under the SFO excludes opinions regarding the creditworthiness of individuals.

See also [FAQ \(Credit rating agencies\)](#)



## Dealing with professional investors exemption

2.3.12 You may not be required to be licensed for futures or securities dealing activity if you act as principal and deal with professional investors<sup>4</sup> only. This exemption will apply if:

### In relation to dealing in futures contracts

- ❖ you as principal carry out the dealing activity concerned in relation to a futures contract traded other than on a recognized futures market as defined in Schedule 1 of the SFO by way of dealing with a person who is a professional investor (whether acting as principal or agent); or

### In relation to dealing in securities

- ❖ you as principal carry out the dealing activity concerned by way of dealing with a person who is a professional investor (whether acting as principal or agent).

See also [FAQ \(Professional investors\)](#)

## Group company exemption

2.3.13 You are not required to be licensed for Type 4 (advising on securities), Type 5 (advising on futures contracts), Type 6 (advising on corporate finance) or Type 9 (asset management) regulated activity if you provide the relevant advice or services solely to your wholly owned subsidiaries, your holding company which holds all your issued shares, or other wholly owned subsidiaries of that holding company.

### In relation to advisory activities

2.3.14 The exemption should not be applied to a corporation advising its group company in respect of that group company's client assets. However, where the investment advice and/or related research reports are provided to the group company for its own consumption, notwithstanding that the group company may rely, in whole or in part, on such advice/research reports to service its clients, the above exclusion will still apply if the advice/research reports are issued to the clients by the group company in its own name and that group company has assessed the corporation's input before issuing such advice/research reports.

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<sup>4</sup> "Professional investor" is specifically defined in Part 1 of Schedule 1 to the SFO. However, please note that the definition of "professional investor" in the Securities and Futures (Professional Investor) Rules does not apply in this exemption.



### **In relation to asset management activities**

- 2.3.15 The exemption is only applicable to a corporation providing asset management service to its group company (on a wholly owned basis) in respect of that group company's assets. It should not be read as applying to the management of assets belonging to the group company's clients. Managing assets belonging to third parties would constitute "asset management" and attract a licensing requirement.

### **Professional exemption**

- 2.3.16 If you are a solicitor, a counsel or a professional accountant, you are not required to be licensed for Type 4 (advising on securities), Type 5 (advising on futures contracts), Type 6 (advising on corporate finance) or Type 9 (asset management) regulated activity if you provide such advice or services wholly incidental to your practice as a solicitor, a counsel or a professional accountant.

### **Broadcaster/Journalist exemption**

- 2.3.17 If you give advice on securities, futures contracts or corporate finance or issue related analyses or reports through:

- ❖ a newspaper, magazine, book or other publication which is made generally available to the public; or
- ❖ television broadcast or radio broadcast for reception by the public, whether on subscription or otherwise,

you are not required to be licensed for Type 4, Type 5 or Type 6 regulated activity (as the case may be).

### **Trust company exemption**

#### **In relation to dealing in securities**

- 2.3.18 If you are a trust company registered under Part VIII of the Trustee Ordinance, you are not required to be licensed for Type 1 regulated activity (dealing in securities) if you act as an agent for a collective investment scheme to distribute application forms, redemption notices, conversion notices and contract notes, and/or receive money and issue receipts on behalf of your principal.

#### **In relation to investment advisory activities**

- 2.3.19 As a trust company, you are not required to be licensed for Type 4 (advising on securities), Type 5 (advising on futures contracts), Type 6 (advising on corporate finance) or Type 9 (asset management) regulated activity if you provide such investment advice or services wholly incidental to your discharge of your duty as a trustee.



### **In relation to asset management activities**

- 2.3.20 If a trustee company acting as trustee of a discretionary trust has appointed an appropriate person to manage the portfolio or in practice acts on professional advice in carrying out its duties as trustee, it would not be required to be licensed. However, if the provision of portfolio management services becomes a separate or distinct business of the trustee company, it is unlikely that the trustee company could rely on the wholly incidental exemption and it would have to apply for a licence for Type 9 regulated activity.

### **Leveraged foreign exchange trading exemption**

- 2.3.21 Schedule 5 to the SFO provides a number of exclusions in the definition of “leveraged foreign exchange trading”. For example, if you are an authorized financial institution, you are not required to be registered for Type 3 regulated activity (leveraged foreign exchange trading) in order to carry out such activity.
- 2.3.22 The Securities and Futures (Leveraged Foreign Exchange Trading – Exemption) Rules set out the requirements and conditions in applying the exemption provided in paragraph (xiii) of the definition of “leveraged foreign exchange trading” of Schedule 5 to the SFO. Please refer to the relevant provisions for details.

## **2.4 Further guidance**

### **Conducting business outside Hong Kong**

- 2.4.1 A licence is issued by the SFC under Part V of the SFO only to allow the holder to carry on business in a regulated activity, or to perform a regulated function in relation to a regulated activity carried on as a business, in Hong Kong. When a licensed corporation or individual conducts activities in a jurisdiction outside Hong Kong, it is necessary for such corporation or individual to ensure that the relevant legal and regulatory requirements of that other jurisdiction are fully complied with.

See also [“Circular clarifying the licensing obligations of corporations and individuals and more particularly those conducting business outside Hong Kong”](#)

### **Provision of financial information on the internet or on-line trading services**

#### **Periodical publication exemption**

- 2.4.2 The definitions of “advising on corporate finance”, “advising on securities”, and “advising on futures contracts” in Schedule 5 to the SFO provide a specific exclusion for a person giving advice through a newspaper, magazine, book or other publication which is made generally available to the public (see paragraph 2.3.17). Internet publications may rely on this licensing exemption if they are able to satisfy the requirements of the provisions.



### **Providing generic factual market information**

- 2.4.3 The ambit of “advising on securities” or “advising on futures contracts” as defined in Schedule 5 to the SFO is broad. In the present context, the licensing requirement should not generally be extended to cover activities concerned solely with the provision of generic factual market information (whether or not through the Internet) where no recommendation on specific securities/futures contracts or investment advice has been made, or to cover the reproduction of the entire research reports of persons licensed by or registered with the SFC.

### **Hyperlinks to other financial web sites**

- 2.4.4 The mere presence of hyperlinks, notwithstanding the links may be with a licensed or registered person, does not of itself trigger a licensing requirement. However, the presence of any inducement, or invitation, to visit the related sites through the links concerned may mean a licence or registration is required. It should be noted that effecting an introduction of a client to a securities/futures/leveraged foreign exchange dealer or its representative in return for a commission, rebate or other remuneration may constitute a regulated activity, for which a licence or registration may be required.

### **Providing analytical tools**

- 2.4.5 Analytical tools facilitating the making of investment decisions are often available from financial information web sites. In general, where the tools are able to identify a variety of investment possibilities or recommendations presenting different choices to users, the providers of such tools would be regarded as “advising on securities” or “advising on futures contracts”. An example would be an analytical tool able to make specific recommendations on the basis of the investment profile (such as risk aversion, age or projected cash flow) as determined by the user. However, the mere provision of analytical tools which solely filter publicly available data in a transparent process does not constitute an advisory activity. For example, the provision of a computer programme that identifies stocks of a particular industry sector having price earning ratios below a predetermined level, or that identifies investment funds having past annual returns above a predetermined level, should not trigger a licensing requirement.

### **Providing automated trading services (ATS)**

- 2.4.6 A corporation that provides ATS as defined in Schedule 5 to the SFO shall either be authorized to provide ATS under Part III of the SFO, or licensed or registered under Part V of the SFO. As a general practice, if that corporation is already an intermediary in respect of other type(s) of regulated activity, it would need to be licensed or registered for Type 7 under Part V of the SFO. An intermediary wishing to submit such application should first read the [“Guidelines for the Regulation of Automated Trading Services”](#) and consult its professional advisers on related business proposal where necessary.



### **Order routing facilities**

- 2.4.7 It should be noted that the provision of electronic order routing facilities and online facilities that simply allows clients to register for monthly subscription plans of authorized collective investment schemes or transmit regular subscription and redemption orders generally would not be regarded as Type 7 regulated activity. If an intermediary intends to conduct dealing activities in the form of the above facilities via the Internet, it is required to:
- (1) complete and submit a Questionnaire for Providing Electronic Trading Services which can be downloaded from the SFC's website (<http://www.sfc.hk/web/EN/forms/intermediaries/licensing-questionnaire/electronic-trading-services.html>); and
  - (2) notify the SFC in writing the effective date of launching such internet services and the address of the web site.
- 2.4.8 An intermediary is responsible for ensuring that the order routing services or other electronic services that it wishes to provide do not fall within the definition of "providing ATS" under Schedule 5 to the SFO. If the services do fall within the definition, the intermediary would need to be licensed or registered for Type 7 regulated activity (as the case may be).

### **Promotional schemes**

- 2.4.9 Intermediaries offering promotional schemes organized in conjunction with their affiliates should pay special attention to the licensing requirements. In particular, care should be taken to ensure that the marketing activities do not cause the affiliates (which may not be licensed or registered) to engage in dealing in securities, dealing in futures contracts or other regulated activities.

### **Incentive schemes**

- 2.4.10 The implementation of incentive schemes, whereby any member of the public (as conducting a business himself) would be remunerated in the form of commission, rebate, etc. after successfully introducing clients to a licensed person or a registered institution, is generally unacceptable. Such practice could potentially result in the introducing party engaging in unlicensed regulated activities. The licensed person or registered institution concerned could also be liable for aiding and abetting the offence. It is of concern that the clients so introduced may not receive the appropriate protection afforded by the regulatory regime. In addition, the introducing party may not be fit and proper to carry out that function.

### **Private equity and venture capital companies**

- 2.4.11 The term "securities" is given a wide definition in Schedule 1 to the SFO. However, shares or debentures of a company that is a private company within the meaning of section 11 of the Companies Ordinance (Cap. 622) is excluded from the definition. As such, a company that deals in, advises on or manages a portfolio of "private equity" or "venture capital" which does not involve securities may not by itself attract a licensing requirement.



## Inter-dealer brokers

- 2.4.12 The obligation of inter-dealer brokers to be licensed under the SFO is largely dictated by the nature of the financial instruments that they trade, their clients and the booking structures which they employ. However, it is likely in most cases that inter-dealer brokers are carrying on a business in Type 1 regulated activity (dealing in securities), Type 2 regulated activity (dealing in futures contracts) and/or Type 3 regulated activity (leveraged foreign exchange trading). If an inter-dealer broker is conducting any of these activities, it must be appropriately licensed under the SFO unless it is able to rely upon any of the exemptions stipulated in the SFO.

See also [“Circular concerning the licensing obligations of Inter-dealer Brokers under the Securities and Futures Ordinance”](#)

## Investment-Linked Assurance Schemes (ILAS)

- 2.4.13 As a general rule, the SFC considers that insurers, corporate insurance brokers and insurance intermediaries who are dealing solely in ILAS and other insurance products should not be licensed under the SFO. However, slight variations in circumstances can result in different interpretations of statutory provisions. In the event of an insurer, a corporate insurance broker or an insurance intermediary engages in regulated activities within the meaning of the SFO, an obligation to be licensed under the SFO might well arise.

See also [“Circular clarifying the licensing requirements arising out of the promotion, offering or sale of Investment-Linked Assurance Schemes to the public”](#)

## Licensing of compliance officers/in-house counsel

- 2.4.14 Normally, the SFC will not license back office staff, including compliance officers and in-house legal counsel, if s/he does not perform functions that directly relate to the conduct of the regulated activity for which the corporation is licensed. If a licensed individual becomes a back office staff by reason of a change of position within the firm, s/he should request a revocation of her/his licence forthwith under section 195(1)(d) of the SFO.
- 2.4.15 As a matter of general principle, the SFC considers it necessary for there to be segregation between the performance of compliance or legal function and the performance of the activities that constitute the carrying on of regulated activities. Without such segregation, there would be inherent conflict arising out of a compliance officer or in-house legal counsel carrying on the regulated activities for which the corporation employing him/her is licensed and, at the same time, being responsible for supervising such activities for the purposes of regulatory compliance.





## **Chapter 3 Types of intermediary and licensed individual**

### **3.1 Licensed corporations**

#### **Full licensed corporation**

- 3.1.1 A corporation (that is not an authorized financial institution) which is granted a licence to carry on one or more regulated activities under section 116 of the SFO.

Please see paragraphs 4.2.1 to 4.2.20 for more information.

#### **Temporary licensed corporation**

- 3.1.2 A corporation (that is not an authorized financial institution) which is granted a temporary licence to carry on, for a period not exceeding 3 months, one or more regulated activities (other than Type 3 (leveraged foreign exchange trading), Type 7 (providing automated trading services), Type 8 (securities margin financing) and Type 9 (asset management)) under section 117 of the SFO.

Please see paragraphs 4.3.1 to 4.3.7 for more information.

### **3.2 Responsible officers**

#### **Responsible officer**

- 3.2.1 S/he is a licensed representative (see paragraph 3.3) who is also approved as a responsible officer under section 126 of the SFO to supervise the regulated activity of the licensed corporation to which s/he is accredited.

Please see Chapter 5 for more information.

### **3.3 Licensed representatives**

#### **Full licensed representative**

- 3.3.1 An individual who is granted a licence under section 120(1) of the SFO to carry on one or more regulated activities for a licensed corporation to which s/he is accredited.

Please see paragraphs 6.1 and 6.2 for more information.



### **Provisional licensed representative**

- 3.3.2 An individual who is granted a provisional licence under section 120(2) of the SFO to carry on one or more regulated activities for a licensed corporation to which s/he is accredited (prior to the grant of her/his licence under section 120(1) of the SFO).

Please see paragraphs 6.3.1 to 6.3.5 for more information.

### **Temporary licensed representative**

- 3.3.3 An individual who is granted a temporary licence under section 121 of the SFO to carry on, for a period not exceeding 3 months, one or more regulated activities for a corporation licensed under section 116 or 117 of the SFO to which s/he is accredited.

Please see paragraphs 6.3.6 to 6.3.7 for more information.

## **3.4 Registered institutions**

### **Registered institutions**

- 3.4.1 An authorized financial institution which is registered to carry on one or more than one regulated activity, other than Type 3 (leveraged foreign exchange trading) and Type 8 (securities margin financing) regulated activities, under section 119 of the SFO. An “authorized financial institution” means an authorized institution as defined in section 2(1) of the Banking Ordinance (i.e. a bank, a restricted licence bank or a deposit-taking company).

Please see Chapter 7 for more information.



## Part II

# What are the requirements for getting a licence or registration

## Chapter 4 Licensed corporations

### 4.1 General fit and proper requirement

4.1.1 The SFC is obliged to refuse to grant a licence or registration if the applicant fails to satisfy the SFC that it is fit and proper. Pursuant to section 129 of the SFO, in considering whether a person is fit and proper for the purposes of licensing or registration, the SFC shall, in addition to any other matter that the SFC may consider relevant, have regard to the following:

- ❖ financial status or solvency,
- ❖ educational or other qualifications or experience having regard to the nature of the functions to be performed,
- ❖ ability to carry on the regulated activity concerned competently, honestly and fairly, and
- ❖ reputation, character, reliability and financial integrity

of the applicant and other relevant persons as appropriate.

4.1.2 The above criteria serve as the fundamental basis when the SFC considers each licence or registration application. For further elaboration of these attributes, you may wish to refer to the [“Fit and Proper Guidelines”](#) and [“Guidelines on Competence”](#).

4.1.3 We set out below the specific criteria that different types of applicant normally need to satisfy to get a licence or registration.

### 4.2 Specific approval criteria – Full licensed corporations

#### Incorporation

4.2.1 You must be a company incorporated in Hong Kong or an overseas company registered with the Companies Registry of Hong Kong.

#### Competence

4.2.2 You have to satisfy the SFC that you have proper business structure, good internal control systems and qualified personnel to ensure the proper management of risks that you will encounter in carrying on your proposed business as detailed in your business plan. Please refer to the following publications of the SFC for more information:

- ❖ [“Guidelines on Competence”](#);
- ❖ [“Code of Conduct for Persons Licensed by or Registered with the SFC”](#) (Code of Conduct); and
- ❖ [“Management, Supervision and Internal Control Guidelines for Persons Licensed by or Registered with the SFC”](#).



## Responsible officers

- 4.2.3 You should appoint not less than two responsible officers to directly supervise the conduct of each regulated activity you apply for.
- 4.2.4 For each regulated activity you apply for, you should have at least one responsible officer available at all times to supervise the business. The same individual may be appointed to be a responsible officer for more than one regulated activity provided s/he is fit and proper to be so appointed and there is no conflict in the roles assumed.
- 4.2.5 At least one of your proposed responsible officers must be an executive director<sup>1</sup> as defined under the SFO.
- 4.2.6 The SFC generally expects that the Managers-In-Charge of the Overall Management Oversight function and the Key Business Line function described in the section of “Senior Management” of this chapter should seek the SFC’s approval as responsible officers in respect of the regulated activities they oversee. For details, please refer to the [“Circular to licensed corporations regarding measures for augmenting the accountability of senior management”](#) and [FAQ \(Measures for augmenting senior management accountability in licensed corporations\)](#).
- 4.2.7 All your executive directors must seek the SFC’s approval as responsible officers accredited to your corporation.
- 4.2.8 All applications for approval as responsible officers should be lodged with the SFC for consideration together with your licence application.

## Senior Management

- 4.2.9 The senior management of your corporation should bear primary responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures by you.

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<sup>1</sup> As defined in section 113(1) of the SFO, “executive director”, in relation to a licensed corporation, means a director of the corporation who –  
(a) actively participates in; or  
(b) is responsible for directly supervising,  
the business of a regulated activity for which the corporation is licensed.

An executive director may reside outside Hong Kong so long as s/he is able to satisfactorily discharge his/her responsibility to supervise the business of regulated activity for which you are licensed. In this regard, factors which the SFC would consider include the frequency of his/her visit to attend to regulated activities in Hong Kong and the systems of internal controls. In addition, you should have at least one responsible officer who is available at all times to supervise the business of the regulated activity for which you are licensed.

It is unlikely that a director who resides outside Hong Kong and does not participate in your day-to-day management will be required to be approved as a responsible officer.



The SFC is of the view that senior management of a licensed corporation includes, among others:

- (a) directors<sup>2</sup> of the corporation,
- (b) responsible officers of the corporation, and
- (c) individuals whom we call the Managers-In-Charge of Core Functions (MICs)

- 4.2.10 These three categories are not mutually exclusive. For instance, an individual can simultaneously be a director, responsible officer and MIC of a licensed corporation.
- 4.2.11 When applying for a licence under section 116(1) of the SFO, you are required to provide information regarding your MICs and your organisational chart.
- 4.2.12 The management structure of a licensed corporation (including its appointment of MICs) should be approved by the Board of the corporation. Furthermore, the Board should ensure that each of the corporation's MICs has acknowledged her/his appointment as MIC and the particular Core Function(s) for which s/he is principally responsible.
- 4.2.13 After being licensed, you are required to notify the SFC of any changes in your appointment of MICs or any changes in certain particulars of your MICs within seven business days of the changes. In some situations, you are also required to submit an updated organisational chart in your notification of that change.
- 4.2.14 For details of the requirements, please refer to the ["Circular to licensed corporations regarding measures for augmenting the accountability of senior management"](#) and [FAQ \(Measures for augmenting senior management accountability in licensed corporations\)](#).

### **Substantial shareholders, officers and other related persons to be fit and proper**

- 4.2.15 Your substantial shareholders, officers<sup>3</sup> and any other person who is or is to be employed by, or associated with, you for the purposes of the regulated activity for which the application is made shall be fit and proper. Please refer to section 129 of the SFO for details.

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<sup>2</sup> The term "director" is defined in Schedule 1 to the SFO to include a shadow director and any person occupying the position of director by whatever name called.

<sup>3</sup> "Officer", in relation to a corporation, means a member of the senior management (including directors, responsible officers and MICs), manager or secretary of, or any other person involved in the management of, the corporation.

As defined in Part 1 of Schedule 1 to the SFO, "director" includes a shadow director and any person occupying the position of director by whatever name called. "Shadow director" means a person in accordance with whose directions or instructions the directors of a corporation are accustomed or obliged to act, but a person shall not be regarded as a shadow director by reason only of the fact that the directors act on advice given by him in a professional capacity.



## **Financial resources**

- 4.2.16 Depending on the type(s) of regulated activity that you apply for, you have to maintain at all times paid-up share capital and liquid capital not less than the specified amounts according to the Securities and Futures (Financial Resources) Rules. If you apply for more than one type of regulated activity, the minimum paid-up share capital and liquid capital that you should maintain shall be the highest amount required amongst those regulated activities you apply for.
- 4.2.17 The following table summarizes the minimum paid-up capital and liquid capital that a licensed corporation is required to maintain for each type of regulated activity.



## Minimum paid-up share capital and liquid capital requirements

Regulated activity	Minimum paid-up share capital	Minimum liquid capital
Type 1 –		
(a) in the case where the corporation is an approved introducing agent <sup>4</sup> or a trader <sup>5</sup>	Not applicable	\$500,000
(b) in the case where the corporation provides securities margin financing	\$10,000,000	\$3,000,000
(c) in any other case	\$5,000,000	\$3,000,000
Type 2 –		
(a) in the case where the corporation is an approved introducing agent, a trader or a futures non-clearing dealer <sup>6</sup>	Not applicable	\$500,000
(b) in any other case	\$5,000,000	\$3,000,000
Type 3 –		
(a) in the case where the corporation is an approved introducing agent	\$5,000,000	\$3,000,000
(b) in any other case	\$30,000,000	\$15,000,000
Type 4 –		
(a) in the case where in relation to Type 4 regulated activity, the corporation is subject to the licensing condition that it shall not hold client assets	Not applicable	\$100,000
(b) in any other case	\$5,000,000	\$3,000,000

<sup>4</sup> “Approved introducing agent” means a licensed corporation approved as such under section 58(4) of the Securities and Futures (Financial Resources) Rules.

<sup>5</sup> “Trader” means a licensed corporation licensed for Type 1 or Type 2 regulated activity which does not hold client assets or handle client orders and, in carrying on the regulated activity for which it is licensed, conducts no business other than effecting, or offering to effect, dealings in securities, futures contracts or options contracts for its own account.

<sup>6</sup> “Futures non-clearing dealer” means a licensed corporation licensed for Type 2 regulated activity which is an exchange participant of a recognized futures market, but is not a clearing participant of a recognized clearing house.



Regulated activity	Minimum paid-up share capital	Minimum liquid capital
Type 5 – (a) in the case where in relation to Type 5 regulated activity, the corporation is subject to the licensing condition that it shall not hold client assets (b) in any other case	Not applicable \$5,000,000	\$100,000 \$3,000,000
Type 6 – (a) in the case where the corporation acts as a sponsor: - hold client assets - not hold client assets (b) in the case where the corporation does not act as a sponsor: - hold client assets - not hold client assets	\$10,000,000 \$10,000,000 \$5,000,000 Not applicable	\$3,000,000 \$100,000 \$3,000,000 \$100,000
Type 7	\$5,000,000	\$3,000,000
Type 8	\$10,000,000	\$3,000,000
Type 9 – (a) in the case where in relation to Type 9 regulated activity, the corporation is subject to the licensing condition that it shall not hold client assets (b) in any other case	Not applicable \$5,000,000	\$100,000 \$3,000,000
Type 10 – (a) in the case where in relation to Type 10 regulated activity, the corporation is subject to the licensing condition that it shall not hold client assets (b) in any other case	Not applicable \$5,000,000	\$100,000 \$3,000,000

4.2.18 Please refer to the Securities and Futures (Financial Resources) Rules for more information on financial resources requirements, e.g. the computation of liquid capital.





## Insurance

- 4.2.19 The Securities and Futures (Insurance) Rules set out the insurance requirements applicable to licensed corporations. If you wish to apply for Type 1 (dealing in securities) and/or Type 2 (dealing in futures contracts) regulated activity and intend to be an exchange participant, you should be prepared to take out insurance under the approved master policy. Related administrative matters are being dealt with by the appointed insurance broker.

See also [FAQ \(Insurance requirements applicable to certain licensed corporations\)](#).

- 4.2.20 Please refer to the Securities and Futures (Insurance) Rules for more information.

## 4.3 Specific approval criteria – Temporary licensed corporations

### Similar role overseas

- 4.3.1 You should be carrying on a business principally outside Hong Kong in an activity which, if carried on in Hong Kong, would constitute a regulated activity. You seek to be licensed for a limited period of time (as mentioned below) for the regulated activity solely for carrying on in Hong Kong such business in the activity. In addition, you are authorized by a relevant regulatory organization in your home jurisdiction to carry on such business in that place.

### Restriction on types of regulated activity

- 4.3.2 A temporary licence holder may carry on one or more of the following regulated activities only:
- ❖ Type 1 (dealing in securities)
  - ❖ Type 2 (dealing in futures contracts)
  - ❖ Type 4 (advising on securities)
  - ❖ Type 5 (advising on futures contracts)
  - ❖ Type 6 (advising on corporate finance)
  - ❖ Type 10 (providing credit rating services)

### Cannot hold client assets

- 4.3.3 You cannot hold any client assets in carrying on the regulated activity.

### Licensed period

- 4.3.4 Your temporary licence, if granted, will be for a duration of not more than 3 months at any one time.
- 4.3.5 You will not be granted temporary licences for more than 6 months in total within any period of 24 months.



## Supervision of business

- 4.3.6 You are required to nominate at least one individual for approval by the SFC for the purposes of section 117(5)(a) of the SFO. That individual shall be available at all times to supervise the business of regulated activity.

## Substantial shareholders, officers and other related parties to be fit and proper

- 4.3.7 The same requirements as mentioned in paragraph 4.2.15 apply to you.

## 4.4 Further guidance

### Sponsors<sup>7</sup>

- 4.4.1 To be eligible to act as a sponsor or a compliance adviser, you are required to be licensed for Type 6 regulated activity that (i) can meet the eligibility criteria set out in the Sponsor Guidelines (Appendix I to [the “Fit and Proper Guidelines”](#)) and (ii) remain fit and proper as licensees. Your Management<sup>8</sup> and you shall be responsible for ensuring that the firm satisfies all specific and on-going eligibility criteria of the Sponsor Guidelines and paragraph 17 of the Code of Conduct. (The Sponsor Guidelines and the Code of Conduct can be downloaded from the SFC website (<http://www.sfc.hk>) under the “Rule Book” section.)

See also [FAQ \(Sponsor regime\)](#)

### Real estate investment trusts (REITs) managers

- 4.4.2 A REITs management company is required to be licensed for Type 9 regulated activity (asset management). Whether it needs to be licensed for other type(s) of regulated activity depends on its mode of operation. For instance, if the management company will also be involved in the listing application of the scheme itself (without appointing a listing agent), the company will need to be licensed for Type 6 regulated activity (advising on corporate finance). If the company will also be involved in distributing REITs or other securities, it will need to be licensed for Type 1 regulated activity (dealing in securities) in addition to Type 9.

See also [FAQ \(Companies entering the industry for the purposes of managing real estate investment trusts \(REITs\)\)](#)

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<sup>7</sup> “Sponsor” means a licensed corporation or registered institution licensed or registered under the SFO for Type 6 regulated activity and permitted under its licence or certificate of registration to undertake work as a Sponsor appointed to act as a sponsor in respect of an application for the listing of any securities on a recognized stock market under the Listing Rules of the Stock Exchange of Hong Kong Limited. A recognized stock market means a stock market operated by a company recognized as an exchange company under section 19(2) of the SFO.

<sup>8</sup> As defined in [the Sponsor Guidelines](#) and paragraph 17.15(i) of the Code of Conduct.



## Chapter 5 Responsible officers

### 5.1 General fit and proper requirement

- 5.1.1 You need to satisfy the SFC that you have fulfilled the fit and proper requirement, having regard to:
- ❖ financial status or solvency,
  - ❖ educational or other qualifications or experience having regard to the nature of the functions to be performed,
  - ❖ ability to carry on the regulated activity concerned competently, honestly and fairly, and
  - ❖ reputation, character, reliability and financial integrity

For more details, please refer to the [“Fit and Proper Guidelines”](#).

### 5.2 Specific approval criteria

- 5.2.1 As part of the fit and proper requirement, you should fulfil competence criteria relating to:
- ❖ academic / industry qualification
  - ❖ relevant industry experience
  - ❖ management experience
  - ❖ local regulatory framework paper

For more details, please refer to Appendix B (Test of Competence for Responsible Officers), Table 1 in Appendix C (Required Recognized Industry Qualifications and Local Regulatory Framework Papers for Responsible Officers), Appendix D (Exemptions from the Recognized Industry Qualification Requirement) and Appendix E (Exemptions from the Local Regulatory Framework Paper Requirement) of the [“Guidelines on Competence”](#).

- 5.2.2 You can apply to be a responsible officer for more than one regulated activity simultaneously provided that you meet the fit and proper (including competence) requirements for the regulated activity concerned, and demonstrate that there is no conflict of interest for you to carry on the regulated activities concurrently. You can also apply to be a responsible officer for more than one licensed corporation simultaneously provided that you demonstrate there is no conflict of interest. Typically this will only be possible where the licensed corporations belong to the same group of companies.



## 5.3 Sufficient authority

- 5.3.1 You should have sufficient authority to supervise the business of regulated activity in the licensed corporation that you will be accredited to.
- 5.3.2 You may or may not be a member of the board of directors of the licensed corporation.
- 5.3.3 However, if you are a director of the corporation and actively participate in or directly supervise the business of regulated activity, you will be an “executive director” as defined in section 113 of the SFO and must apply to become a responsible officer of the licensed corporation in respect of the regulated activity concerned.
- 5.3.4 An employer-employee relationship is not a prerequisite for the approval of a responsible officer. For example, a consultant (not being an employee) of a company undertaking to supervise regulated activities is eligible to be approved as a responsible officer. However, that individual must act on behalf of or have an arrangement with the licensed corporation for carrying out the regulated activity.

## 5.4 Further guidance

### Managers-In-Charge of Core Functions (MICs)

- 5.4.1 The SFC generally expects that MICs of two core functions set out in the [“Circular to licensed corporations regarding measures for augmenting the accountability of senior management”](#) issued on 16 December 2016, namely the Overall Management Oversight function and the Key Business Line function, should seek the SFC’s approval to be responsible officers in respect of the regulated activities they oversee.
- 5.4.2 For details of the requirements, please refer to the [“Circular to licensed corporations regarding measures for augmenting the accountability of senior management”](#) and [FAQ \(Measures for augmenting senior management accountability in licensed corporations\)](#).

### Requirement on relevant industry experience for responsible officers

- 5.4.3 The SFC recognises a broad range of industry experience as being relevant when considering responsible officer applications. For example, experience acquired from sales and marketing of funds, although not directly relevant to investment management, may be recognised in respect of Type 9 regulated activity (asset management). In some situations the SFC may impose a non-sole condition on the related licence (under which the individual must, when actively participating in or when directly supervising the business for which the firm is licensed, do so under the advice of another responsible officer who is not subject to the non-sole condition). In considering whether an applicant meets the industry experience tests, the SFC will also take into account, amongst other things, his/her overall career history accumulated in the industry.



## Overseas residents

- 5.4.4 The SFC will only grant licences to individuals if they will come to Hong Kong to carry on regulated activities on behalf of the licensed corporations they are accredited to.
- 5.4.5 If a responsible officer will be stationed overseas and come to Hong Kong to carry on regulated activity from time to time, s/he should expect a non-sole condition (i.e. under which the individual must, when actively participating in or when directly supervising the business for which the firm is licensed, do so under the advice of another responsible officer who is not subject to the non-sole condition) to be imposed on her/his licence. Her/His principal should ensure that it has sufficient onshore responsible officers who are free from any licensing condition with respect to the regulated activity to supervise the business of regulated activity in Hong Kong.

For more details, please refer to the circular:

[“Circular clarifying the licensing obligations of corporations and individuals and more particularly those conducting business outside Hong Kong”](#).

- 5.4.6 Itinerant professionals should not be responsible officers because responsible officers are required to be responsible for overseeing the regulated activity for which their principal is licensed. Itinerant professionals spend only short periods in Hong Kong from time to time and for specific purposes. This is generally incompatible with the performance of the obligations that are imposed on responsible officers.

## Sponsors

- 5.4.7 The Sponsor Guidelines (Appendix I of [the Fit and Proper Guidelines](#)) set out eligibility requirements for being a sponsor principal of a licensed corporation of Type 6 regulated activity that engages in sponsor work.
- 5.4.8 In general, a sponsor principal should be a responsible officer of the sponsor. They should be responsible for supervising the regulated activity at all times and their licence or registration should be free from any condition concerning her/his competence to advise on, or engage in, sponsor work. However, a sponsor can appoint a responsible officer who is subject to the non-sole condition as sponsor principal, provided that s/he is fully competent to act as a sponsor principal and her/his licence is subject to the condition solely because s/he is based outside Hong Kong. Such appointment is subject to the sponsor having at least one other sponsor principal (i) who is eligible to act as a sponsor principal under Option 1, (ii) who is based in Hong Kong and (iii) whose licence is not subject to the non-sole condition or any other condition restricting him from advising on, or engaging in, sponsor work. Itinerant professionals are not eligible to act as sponsor principals.

See also [FAQ \(Sponsor regime\)](#).



## Advising on Takeovers Codes

- 5.4.9 Section 1.7 of the Hong Kong Codes on Takeovers and Mergers and Share Buy-backs (Takeovers Codes) provides that financial and other professional advisers must have the competence, professional expertise and adequate resources to fulfil their role and to discharge their responsibility under the Codes. If the Executive (as defined under the Takeovers Codes) considers that a financial adviser is not able to meet these requirements, s/he may not allow the financial adviser to act in that capacity even if there is no specific restriction stated on the licence.
- 5.4.10 If you intend to advise on matters falling within the ambit of the Takeovers Codes, you are required to demonstrate your competence in Codes-related matters by completing Supplement 11 (Activities in Connection with Matters Regulated by the Hong Kong Codes on Takeovers and Mergers and Shares Buy-backs) and provide certain supporting documents. In general, you must satisfy the SFC that you have the experience of supervising at least one completed transaction under the Takeovers Codes or the London Takeover Code.

## Real Estate Investment Trust (REIT) managers

- 5.4.11 Fund managers applying to be a responsible officer for Type 9 regulated activity to be accredited to a Real Estate Investment Trust management company are required to demonstrate a track record of at least 5 years in investment management and/or property portfolio management, in addition to the general competence requirements for responsible officers as stipulated in the Guidelines on Competence.

See also [FAQ \(Companies entering the industry for the purposes of managing real estate investment trusts\)](#).



## Chapter 6 Licensed representatives

### 6.1 General fit and proper requirement

- 6.1.1 You need to satisfy the SFC that you have fulfilled the fit and proper requirement, having regard to:
- ❖ financial status or solvency,
  - ❖ educational or other qualifications or experience having regard to the nature of the functions to be performed,
  - ❖ ability to carry on the regulated activity concerned competently, honestly and fairly, and
  - ❖ reputation, character, reliability and financial integrity

For more details, please refer to the [“Fit and Proper Guidelines”](#).

### 6.2 Specific approval criteria

- 6.2.1 As part of the fit and proper requirement, you should fulfil competence criteria relating to:
- ❖ academic / industry qualification
  - ❖ relevant industry experience / recognized industry qualification
  - ❖ local regulatory framework paper

For more details, please refer to Appendix B (Test of Competence for Representatives), Table 2 in Appendix C (Required Recognized Industry Qualifications and Local Regulatory Framework Papers for Representatives), Appendix D (Exemptions from the Recognized Industry Qualification Requirement) and Appendix E (Exemptions from the Local Regulatory Framework Paper Requirement) of the [“Guidelines on Competence”](#).

See also [FAQ \(Licensing examinations\)](#).

- 6.2.2 If you intend to be a representative of a licensed corporation of Type 6 regulated activity that engages in sponsor work, you are required to be satisfy additional competence requirements.

See also [FAQ \(Sponsor regime\)](#).



## 6.3 Types of representative licence

### Provisional licence

- 6.3.1 A provisional licence is a licence granted to an individual to carry on a regulated activity under section 120(2) of the SFO, pending the completion of the application process to decide upon the grant of a full representative licence as defined under section 120(1) of the SFO.
- 6.3.2 The SFC may grant you a provisional licence to carry on regulated activity as a representative if you can satisfy the SFC that you are fit and proper and the grant of your provisional licence will not prejudice the interest of the investing public.
- 6.3.3 If you submit an application to be a licensed representative, you can also apply for a provisional licence. The fit and proper requirement described in paragraphs 6.1 to 6.2 is applicable. An application fee of \$800 for the provisional licence is required, in addition to the application fee to become a normal licensed representative.
- 6.3.4 Generally, the SFC expects to make a determination with respect to a provisional licence application within 7 business days upon receipt of a properly completed application.
- 6.3.5 There is no specific expiry date imposed on provisional licences. Your provisional licence, if granted, will be deemed to be revoked when your application to be a normal licensed representative is approved or refused.

### Temporary representative licence

- 6.3.6 Under section 117 of the SFO, the SFC may grant a temporary licence to an individual who is regulated by a relevant overseas regulatory body to carry on regulated activities in Hong Kong for a period not exceeding 3 months.
- 6.3.7 If you apply to be a temporary licensed representative, you are expected to fulfil the following additional requirements:
- (a) Similar role overseas
- You should carry on in a place outside Hong Kong an activity which, if carried on in Hong Kong, would constitute carrying on a regulated activity. You should carry on the activity under an authorization by a regulatory organization in that place which, in the SFC's opinion, performs a function similar to the functions of the SFC. That regulatory organization should be empowered under the law of that place to investigate and (where applicable) take disciplinary action for your conduct in Hong Kong.





If the regulator in your jurisdiction does not directly authorize you, you will need to satisfy the SFC that:

- (i) The overseas regulator has put in place relevant codes or guidelines that set out the entry requirements applicable to individuals joining the industry under its jurisdiction, e.g. education, training, examination, experience and/or other competence requirements;
- (ii) You are obliged to comply with relevant rules and/or codes or guidelines issued by the overseas regulator that govern your conduct in carrying out regulated activities in the overseas jurisdiction; and
- (iii) The overseas regulator has the power to remove and prohibit unsuitable individuals from carrying out regulated activities under its jurisdiction, e.g. revoking an authorization, or issuing a banning order from entering the industry.

The list of Acceptable Inspection Regimes (see Appendix A2 of the [“Code on Unit Trusts and Mutual Funds”](#)) serves as a useful reference for considering whether the regulator in your jurisdiction performs a function similar to the functions of the SFC. It is not an exhaustive list. Consideration will be given to the above factors on case by case basis.

(b) Accreditation<sup>1</sup> to a licensed corporation

As well as having a similar role overseas, you must be accredited to a corporation licensed under section 117 of the SFO (i.e., a licensed corporation described in paragraph 3.1.1) that is within the same group of companies as your principal in your home jurisdiction.

Alternatively, you must intend to be accredited to a temporary licensed corporation (described in paragraph 3.1.2) and seek to be licensed as a temporary representative solely for the conduct of its business in the activity referred to in its licence application.

(c) Restriction on types of regulated activity

A temporary licence holder may only carry on one or more of the following regulated activities:

- ❖ Type 1 (dealing in securities)
- ❖ Type 2 (dealing in futures contracts)
- ❖ Type 4 (advising on securities)
- ❖ Type 5 (advising on futures contracts)
- ❖ Type 6 (advising on corporate finance)
- ❖ Type 10 (providing credit rating services)

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<sup>1</sup> “Accreditation” means that the individual has to be attached to a licensed corporation in order to be licensed. S/he cannot apply to be licensed independently. However, it does not matter whether or not s/he is an employee of the corporation, as long as s/he acts on behalf of that corporation.



(d) Licensed period

Your temporary licence, if granted, will be for a duration of not more than 3 months at any one time. You will not be granted temporary licences for more than 6 months in total within any period of 24 months.

**Itinerant professionals**

6.3.8 If you will repeatedly visit Hong Kong on business for a short period each time, you may apply for a representative licence to be an itinerant professional.

6.3.9 Itinerant professionals who perform regulated activities in Hong Kong may be exempted from taking the relevant local regulatory framework paper, subject to the following conditions and undertakings:

(a) Conditions

The SFC may impose conditions on the licence of itinerant professionals to the effect that they (i) shall not carry out the regulated activity(ies) in Hong Kong for more than 30 days in each calendar year; and (ii) shall at all times be accompanied by a licensed/registered person in performing regulated activities in Hong Kong.

Without compromising investor protection, the SFC may consider removing the chaperoning requirement as mentioned in condition (ii) and impose an alternative condition to the effect that the individual can only provide services that constitute regulated activities to professional investors as defined under the Securities and Futures Ordinance.

(b) Undertakings

For itinerant professionals subject to conditions (i) and (ii), the principal should provide a written undertaking to the effect that it will assume full responsibility for the supervision of the individual's activities during her/his stay in Hong Kong and ensure s/he will comply with the relevant rules and regulations at all times.

For those subject to the alternative condition, the principal shall provide additional undertakings that it will:

- (i) provide training in the form of a structured course to the individual to ensure that s/he is fully aware of the Hong Kong regulatory framework before s/he commences carrying out regulated activity(ies) in Hong Kong; and



- (ii) comply with the requirements set out under Paragraph (6)(c) of Appendix E of the [“Guidelines on Competence”](#), in which it will arrange at least one approved responsible officer for the regulated activity to directly supervise or otherwise responsible for advising the individual in conducting regulated activity in Hong Kong.



## Chapter 7 Registered institutions

### 7.1 Specific approval criteria

#### Authorized institution

- 7.1.1 You must be an authorized financial institution<sup>1</sup>. It is desirable that you notify the HKMA before submitting an application for registration to the SFC.

#### Executive officers

- 7.1.2 You should appoint not less than two executive officers responsible for directly supervising the conduct of each regulated activity you apply for.
- 7.1.3 For each regulated activity, you should have at least one executive officer available at all times to supervise the business. The same individual may be appointed to be an executive officer for more than one regulated activity provided that he is fit and proper to be so appointed and there is no conflict in the roles assumed.
- 7.1.4 An executive officer is a person who has obtained the consent of the HKMA to act in such capacity under the Banking Ordinance. The HKMA is obliged to refuse to give that consent unless it is satisfied that the individual is a fit and proper person and has sufficient authority to be an executive officer of the registered institution concerned.
- 7.1.5 Executive officers are expected to meet the same competence requirements as responsible officers of licensed corporations described in paragraphs 5.1 to 5.2.

#### Relevant individuals<sup>2</sup>

- 7.1.6 Individuals engaged to carry on regulated activity on your behalf are regarded as relevant individuals. They are not required to be registered or licensed with the SFC, but their names and certain particulars have to be entered in the register maintained by the HKMA.
- 7.1.7 It is a statutory condition of registration for every registered institution that its relevant individuals are fit and proper. In relation to competence requirements, executive officers are expected to meet the same requirements as responsible officers of licensed corporations (as mentioned in paragraph 7.1.5) while other relevant individuals are expected to meet the same competence requirements as licensed representatives (see paragraphs 6.1 to 6.2).

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<sup>1</sup> "Authorized financial institution" means an authorized institution as defined in section 2(1) of the Banking Ordinance (i.e. a bank, a restricted licence bank or a deposit-taking company).

<sup>2</sup> "Relevant individual", in relation to a registered institution, means an individual who performs for or on behalf of or by an arrangement with the institution any regulated function in a regulated activity. Please refer to Footnote 3 for the definition of "regulated function".



## **Substantial shareholders, etc. to be fit and proper**

- 7.1.8 Your substantial shareholders, directors, chief executive, managers (as defined in section 2(1) of the Banking Ordinance), executive officers and any other person who will be acting for or on behalf of you in relation to the regulated activity for which the application is made shall be fit and proper. Please refer to section 129 of the SFO for details.

## **7.2 Further guidance**

- 7.2.1 You should maintain sufficient records (with supporting documents, where applicable) on how the competence requirements of relevant individuals are satisfied and make these records available for inspection upon request from the HKMA.
- 7.2.2 You should ensure that a relevant individual does not purport to rely on any exemption from the recognized industry qualification and local regulatory framework requirements unless this is in line with the criteria set out in Appendices D and E of the [“Guidelines on Competence”](#).
- 7.2.3 The HKMA may require an applicant to provide an Independent Assurance Report (IAR) to support its decision on the applicant’s fitness and propriety and whether the applicant is competent to carry on any regulated activities. The IAR should be prepared by an external professional firm which is acceptable to the HKMA. This will normally be required for an applicant that is new to the securities and futures market of Hong Kong and in cases regarded as especially complex.
- 7.2.4 If you intend to conduct Initial Public Offering sponsor activities, you are expected to do so through a Type 6 licensed corporation within the same group.
- 7.2.5 In deciding whether to register or refuse to register an applicant, the SFC shall have regard to any advice given by the HKMA and may rely on that advice in making the decision.



## Part III How to apply for a licence or registration

### Chapter 8 Application procedures

#### 8.1 Completing the application form

8.1.1 If you wish to apply for a licence or registration, you should submit your application to the SFC through the following channels:

- All individual-related applications should be submitted through the SFC Online Portal (<https://portal.sfc.hk>). If you do not have a portal account, you may open a Self-registered Account for submitting your online licensing application forms. A [user guide](#), [online demo](#), [FAQs](#) and [practical tips](#) of the SFC Online Portal are available on the SFC's website.
- Corporate applications may be submitted via the SFC Online Portal or using paper forms published on the Commission's website. For an individual substantial shareholder or responsible officer whose application is a necessary component of a corporate application, the application may be submitted together with the corporate application in paper form.

8.1.2 If you wish to submit a corporate application in paper form, application forms (in pdf format) can be downloaded from the SFC's web site under the section [Licensing: application & notification forms](#). Please also see paragraph 8.12.1 below on the required forms and supplements for various kinds of applications.

8.1.3 In the application forms concerning licensed corporations, registered institutions or responsible officers, the applicants are required to declare that the relevant board of directors has passed a resolution approving the application. It would be acceptable if the board of directors has passed a resolution authorizing a specified committee or person to approve the application and that committee or person has so approved the application.

#### 8.2 Submitting the application

8.2.1 Before submitting your application, please check that you have provided everything that we need to process your application. In particular, you should:

- ❖ answer every question in the application form and supplement(s), where applicable; and
- ❖ provide all necessary supporting documents, preferably by submission of electronic copies through the SFC Online Portal.



If submitted online, you will upon our acceptance of your application receive a portal message requesting payment of the required application fee. An online payment facility is provided on the SFC Online Portal. In case of paper submission, please enclose (together with the application documents) a cheque payable to “Securities and Futures Commission” for the required application fee (as shown in the table below).

Type of application	Type of regulated activity (RA)	Application fee amount
Licensed corporation	Types 1, 2, 4, 5, 6, 7, 8, 9, 10	\$4,740 per RA <sup>1</sup>
	Type 3	\$129,730
Temporary licensed corporation	Types 1, 2, 4, 5, 6, 10	\$4,900 per RA
Registered institution	Types 1, 2, 4, 5, 6, 7, 9, 10	\$23,500 per RA <sup>1</sup>
Licensed representative	Types 1, 2, 4, 5, 6, 7, 8, 9, 10	\$1,790 per RA <sup>1</sup>
	Type 3	\$2,420
Provisional licensed representative	Not applicable	\$800 per application <sup>2</sup>
Temporary licensed representative	Types 1, 2, 4, 5, 6, 10	\$1,850 per RA
Approval to become responsible officer	Types 1 through 10	\$2,950 per RA <sup>1</sup>

8.2.2 For paper submission, you may submit your application package:

- ❖ in person to the SFC’s office; or
- ❖ by post to the Licensing Department of the SFC.

<sup>1</sup> The application fee payable for Type 7 regulated activity is waived if the applicant’s proposed carrying on of Type 7 regulated activity is incidental to the carrying on, or proposed carrying on, of Type 1 or Type 2 regulated activity by that applicant.

<sup>2</sup> This fee is payable on top of the application fee for becoming a normal licensed representative.



### **8.3 Responsibilities of licensed corporation supporting an individual licence application**

- 8.3.1 An application by an individual seeking to be licensed as a representative and/or approved as a responsible officer, is made to the SFC jointly by the individual and the licensed corporation to which he/she is, or is proposing to become, accredited. It is the responsibility of the individual to ensure that the information provided in support of his/her application is neither false nor misleading, and the responsibility of the licensed corporation to verify this and to endorse the application.
- 8.3.2 Because the licensed corporation is responsible for verifying the accuracy of the supporting information, the SFC requires that communications concerning any such application are conducted directly between the SFC and the licensed corporation or its professional services provider, if any. This ensures that the information comes from a single source and avoids situations in which an individual applicant provides information that the licensed corporation is unaware of and has not had the opportunity to verify or endorse. This means that licensed corporations must work closely with individual applicants to ensure that they are fully aware of all communications from the SFC and that any information provided to the SFC in support of such applications is neither false nor misleading.
- 8.3.3 SFC will enter into direct communication with individual applicants only in exceptional circumstances, for example, where the communication concerns a matter of a criminal or regulatory nature in relation to which an individual has a legal obligation or entitlement to maintain confidentiality to the exclusion of the licensed corporation.

### **8.4 Return of application**

- 8.4.1 We may return your application if it is incomplete and/or it has unresolved fundamental issues. You may re-submit it later with additional documents and/or information for our re-consideration and further processing. Examples of situations in which we may return your application are:
- (a) You have not applied for the appropriate type(s) of regulated activity.
  - (b) You have not completed the required forms and supplements, or have not provided necessary supporting documents.
  - (c) You have not provided explanations as to why you are fit and proper to be licensed in the light of your “Yes” answer to any question in the following sections of the respective forms or supplements:
    - ❖ Disciplinary Actions and Investigations
    - ❖ Financial Status
    - ❖ Character
    - ❖ Mental Health (for individuals only)





- (d) You do not appear to have met the competence requirements set out in [“Guidelines on Competence”](#). (Note: Section 4/Appendix A and section 5/Appendix B of the Guidelines set out the competence requirements applicable to corporations and individuals respectively for licensing purposes. If there are exceptional circumstances which you would like us to take into account in your application, please provide us with further information.)

**(For individual applications only)**

- (e) You indicated that you are required to have an employment visa in Hong Kong to carry out the proposed regulated activities but you have not applied for it.
- (f) You are a director (as defined under Schedule 1 to the SFO) of your proposed accredited principal and only apply to be its licensed representative but not responsible officer.

**(For corporate applications only)**

- (g) You have not provided sufficient information on your proposed business and operational workflow. (Note: Applicants are expected to elaborate on the information provided in Supplement 8 by providing a detailed business plan covering, among other things, scope of activities, services and products to be provided, whether holding client assets, target clientele, contractual relationship with counterparties, fee model, organisational structure with key human resources in all aspects of the business, and management decision making process.)
- (h) You do not have at least two proposed responsible officers who appear to have met the competence requirements (with one of them being fully competent) for each regulated activity that you intend to carry on.

## **8.5 Withdrawal of application**

- 8.5.1 You may choose to withdraw your application prior to the approval or refusal of the application by the SFC. In such circumstances, the application fee will not be refunded.

## **8.6 Processing time**

- 8.6.1 The processing of an application submitted to the SFC by a new industry participant normally takes approximately:
- ❖ 7 business days (for a provisional licensed representative application);
  - ❖ 8 weeks (for a normal licensed representative application);
  - ❖ 10 weeks (for a responsible officer application); or
  - ❖ 15 weeks (for a licensed corporation application).



8.6.2 The time it takes to process an application may vary depending on a number of factors such as:

- ❖ whether submission has been made through the SFC Online Portal;
- ❖ the types of service or product you propose to provide;
- ❖ the quality and completeness of your application;
- ❖ the quality of the supporting documents;
- ❖ the time taken for other regulatory bodies to respond to our vetting requests, where applicable;
- ❖ your response time to provide any further information requested during the assessment process; and
- ❖ the number of applications we are processing at any particular time.

## 8.7 Refusal of application

8.7.1 We will refuse your application if you do not meet the statutory licensing requirements or you fail to satisfy us that you are a fit and proper person to be licensed or registered. Before we refuse your application, you will be given an opportunity to be heard (section 140 of the SFO). Any representations that you make will be carefully considered before we reach our final decision. If we refuse your application, you may, within 21 days, apply to the Securities and Futures Appeals Tribunal for a review of our decision (section 217 of the SFO). Please address your correspondence relating to the review to:

The Secretary to the Securities and Futures Appeals Tribunal  
38th Floor, Immigration Tower  
7 Gloucester Road  
Wanchai  
Hong Kong

## 8.8 Approval of application

8.8.1 Once all licensing requirements are met and the SFC is satisfied that you are fit and proper, we may grant you a licence or registration (as the case may be). You will be notified of the approval in writing.

8.8.2 For a licensed corporation or registered institution, a licence certificate or a certificate of registration will be posted to you by registered mail.

8.8.3 No licence certificates are issued to individual licensees. The approval dates of an individual's licence, type(s) of regulated activity, and accreditation to principal(s) can be found in [the public register](#) on the SFC web site.

8.8.4 You may refer to [the public register](#) on the SFC web site to confirm that your licence/registration status and related particulars are correctly reflected. Please notify the SFC immediately if there is any discrepancy.



## **8.9 Further guidance for licensed corporations**

### **Complaints officer or emergency contact person**

- 8.9.1 An unlicensed staff member can be nominated as a complaints officer or an emergency contact person of a licensed corporation. For group companies, it is preferable that the emergency contact person should have sufficient authority and be familiar with the overall affairs of the group.

### **Notification of financial year end**

- 8.9.2 As a licensed corporation, you are required to notify the SFC of your financial year end within one month upon the grant of your licence (section 155(1)(a) of the SFO).

### **Bank account information**

- 8.9.3 As required by the Securities and Futures (Licensing and Registration) (Information) Rules, the SFC will not grant a licence to a corporate licence applicant unless it has provided details of its bank account information. You are normally not required to provide your bank account details up front when you submit your application. However, such information must be provided to the SFC before your application is approved.

## **8.10 Further guidance for licensed representatives (including responsible officers)**

### **Responsible officers must be licensed representatives**

- 8.10.1 Only licensed representatives can apply for approval to become responsible officers. However, in practice, a person may apply to be a licensed representative and for approval as responsible officer contemporaneously.
- 8.10.2 A person cannot be provisionally approved to be a responsible officer. However, this does not preclude an applicant who has been granted a provisional licence as a representative from submitting an application also to be a responsible officer. The SFC will consider the responsible officer application in parallel with the earlier application for a full representative's licence.

### **Accreditation to specified principal(s)**

- 8.10.3 As a licensed representative, you can only act for the licensed corporation(s) to which you are accredited, i.e. your principal(s), in carrying out your licensed regulated activity or activities.

### **Cessation of accreditation**

- 8.10.4 When you cease to act for your principal(s), the relevant principal(s) should, within 7 business days after such cessation, notify the SFC of the cessation (section 123(1)(a) and (b) of the SFO) through the SFC Online Portal.



### **Transfer of accreditation**

- 8.10.5 Upon ceasing to act for your principal(s), you may apply for a transfer of accreditation through the SFC Online Portal within 180 days after the cessation in order to act for another licensed corporation. It takes approximately 7 business days to process an application for transfer of accreditation to carry on the same type(s) of regulated activity for which you were licensed immediately prior to your cessation.

### **Disclosure of warning record**

- 8.10.6 If you have previously received a warning from a regulator (regardless how long the warning was given), you should disclose such a warning record in the application form to enable the SFC to make an assessment on a fully informed basis.
- 8.10.7 If you disclose to your employer (i) the fact that you have previously received a warning letter from the SFC and (ii) the contents of the warning letter, the SFC is of the view that such a disclosure does not breach any secrecy provisions in the SFO.

### **Disclosure of convictions that were spent, dismissed or expunged**

- 8.10.8 If you have a conviction which was subsequently spent, dismissed or expunged and where you wish to maintain confidentiality in relation to such conviction, you may check "No" to relevant questions in the disciplinary actions, investigations and character sections of your application form. However, you are obliged to disclose details of the offence(s) involved and the relevant conviction to the Commission.
- 8.10.9 The protection under the Rehabilitation of Offenders Ordinance (Cap 297) does not apply to proceedings relating to a person's suitability to be granted a licence. You are therefore required to provide the relevant details in a separate submission, which you must sign, date and send directly to the Commission, within two business days of the date your application is submitted.

## **8.11 Further guidance for registered institutions**

### **Complaints officer or emergency contact person**

- 8.11.1 A staff member not being an executive officer or a relevant individual can be nominated as a complaints officer or an emergency contact person of a registered institution. For group companies, it is preferable that the emergency contact person should have sufficient authority and be familiar with the overall affairs of the group.



## 8.12 Required application forms and supplements for applications for new corporate licence/registration

8.12.1 Further to paragraph 8.1.2 above, the application forms and supplements required for applications for new corporate licence/registration are listed below<sup>3</sup>.

### New Licence / Registration Applications

If you	Please submit
<p>Are a <u>corporation</u> which is <u>not</u> currently licensed and would like to apply for a <u>new licence</u></p>	<ul style="list-style-type: none"> <li>• Part A of Form 1</li> <li>• Part B or C of Form 1 for each proposed responsible officer (at least two responsible officers should be nominated)</li> <li>• Supplements 1, 6, 7 and 8</li> <li>• Other forms/supplements (if applicable):               <ul style="list-style-type: none"> <li>✓ Part D of Form 1 (advising on Takeovers Codes<sup>4</sup> related matters)</li> <li>✓ Form 1(s), and Supplement 10(s) for at least two proposed principals (act as Sponsor<sup>5</sup>)</li> <li>✓ Supplement 2 (corporate substantial shareholder)</li> <li>✓ Supplement 3 (individual substantial shareholder/director)</li> <li>✓ Supplement 4 (corporate director)</li> <li>✓ Form 6, Supplements 5 and 13 (associated entity)</li> <li>✓ Supplement 9 (licence record)</li> <li>✓ Supplement 14 (automated trading services)</li> <li>✓ Questionnaire for providing electronic trading service or providing margin lending</li> </ul> </li> <li>• Application fee</li> </ul>
<p>Are an <u>authorized institution</u> and would like to apply for registration to become a <u>registered institution</u></p>	<ul style="list-style-type: none"> <li>• Form 2</li> <li>• Supplements 1 and 8</li> <li>• Copies of application forms for approval to become an executive officer submitted to the HKMA (at least two executive officers should be nominated)</li> <li>• Other forms/supplements (if applicable):               <ul style="list-style-type: none"> <li>✓ Form 6, Supplements 5 and 13 (associated entity)</li> <li>✓ Supplement 9 (licence record)</li> </ul> </li> <li>• Application fee</li> </ul>

<sup>3</sup> All applications, notifications and annual returns by individual applicants and licensees should from 1 February 2017 be submitted via the SFC Online Portal. Applications, notification and annual returns by corporate applicants or intermediaries may be submitted via the SFC Online Portal, or using the paper forms. For an individual substantial shareholder or responsible officer whose application is a necessary component of a corporate application, the application may be submitted together with the corporate application in paper form.

<sup>4</sup> [The Codes on Takeovers and Merger and Share Buy-backs](#)

<sup>5</sup> As defined in [the Additional Fit and Proper Guidelines for Corporations and Authorized Financial Institutions applying or continuing to act as Sponsors and Compliance Advisers](#).



If you	Please submit
Are a <u>corporation</u> which is <u>not</u> currently licensed and would like to apply for a <u>new temporary licence</u>	<ul style="list-style-type: none"> <li>• Part A of Form 1</li> <li>• Part B of Form 1A for each temporary representative / responsible officer (at least one temporary representative should be nominated)</li> <li>• Supplements 1, 6, 7, 8 and 9</li> <li>• Other forms/supplements (if applicable):               <ul style="list-style-type: none"> <li>✓ Part C of Form 1A (advising on Takeovers Codes related matters)</li> <li>✓ Supplement 2 (corporate substantial shareholder)</li> <li>✓ Supplement 3 (individual substantial shareholder/director)</li> <li>✓ Supplement 4 (corporate director)</li> <li>✓ Form 6, Supplements 5 and 13 (associated entity)</li> </ul> </li> <li>• Application fee</li> </ul>

8.12.2 If you are a licensed corporation or a registered institution, you should submit an application to the SFC if you intend to make any changes on your licence / registration status. The application forms and supplements required for the related applications are listed below:

### Applications relating to existing Licensed Corporations / Registered Institutions

If you	Please submit
Are a <u>licensed corporation</u> and would like to apply for <u>addition of regulated activity</u>	<ul style="list-style-type: none"> <li>• Part A of Form 4</li> <li>• Part B or C of Form 4 for each proposed responsible officer (at least two responsible officers should be nominated for each type of new regulated activity)</li> <li>• Supplement 8</li> <li>• Other forms/supplements (if applicable):               <ul style="list-style-type: none"> <li>✓ Part D of Form 4 (advising on Takeovers Codes related matters)</li> <li>✓ Form 1(s) and Supplement 10(s) for at least two proposed principals (act as Sponsor)</li> <li>✓ Supplement 7 (financial resources)</li> <li>✓ Supplement 14 (automated trading services)</li> <li>✓ Questionnaire for providing electronic trading service or providing margin lending</li> </ul> </li> <li>• Application fee</li> </ul>
Are a <u>registered institution</u> and would like to apply for <u>addition of new regulated activity</u>	<ul style="list-style-type: none"> <li>• Part A of Form 4</li> <li>• Copies of application forms for approval to become an executive officer submitted to the HKMA (at least two executive officers should be nominated)</li> <li>• Supplement 8</li> <li>• Application fee</li> </ul>
Are a <u>licensed corporation / registered institution</u> and would like to apply for <u>reduction of regulated activity</u>	<ul style="list-style-type: none"> <li>• Part A of Form 4</li> <li>• Part B of Form 4 (for each responsible officer applying for reduction of regulated activity)</li> <li>• Application fee</li> </ul>



If you	Please submit
<p>Are a <u>licensed corporation / registered institution</u> and would like to apply for <u>modification or waiver of licensing/registration condition</u></p>	<ul style="list-style-type: none"> <li>• Part A of Form 4</li> <li>• Supplement 8</li> <li>• Other forms/supplements (if applicable):               <ul style="list-style-type: none"> <li>✓ Part B of Form 4 (application for modification/waiver of licensing condition by your responsible officer)</li> <li>✓ Form 1(s) and Supplement 10(s) for at least two proposed principals (application for waiver of “no sponsor work” condition)</li> <li>✓ Supplement 7 (financial resources)</li> </ul> </li> <li>• Application fee</li> </ul>
<p>Are a <u>licensed corporation</u> and would like to make a submission to act as <u>Sponsor</u></p>	<ul style="list-style-type: none"> <li>• Form 1s</li> <li>• Supplement 10(s) for each proposed principal (at least two principals should be nominated)</li> </ul>
<p>Are a <u>licensed corporation / registered institution</u> and would like to apply for approval for:</p> <ul style="list-style-type: none"> <li>• change of financial year end;</li> <li>• adoption of period exceeding 12 months as a financial year;</li> <li>• extension of deadline for submission of audited accounts;</li> <li>• premises to be used for records keeping purpose; or</li> <li>• issuance of duplicate printed licence/certificate of registration</li> </ul>	<ul style="list-style-type: none"> <li>• Form 4A</li> <li>• Supplement 1 for approval of record keeping premises</li> <li>• Application fee</li> </ul>
<p>Would like to apply for approval to become a <u>substantial shareholder</u> of a licensed corporation</p>	<ul style="list-style-type: none"> <li>• Form 4A</li> <li>• An updated group chart showing the shareholding structure before and after the proposed change</li> <li>• Other forms/supplements (if applicable):               <ul style="list-style-type: none"> <li>✓ Supplement 2 (corporate substantial shareholder)</li> <li>✓ Supplement 3 (individual substantial shareholder/director)</li> <li>✓ Supplement 4 (corporate director)</li> <li>✓ Supplement 9 (licence records)</li> </ul> </li> <li>• Application fee</li> </ul>



## Part IV After being licensed or registered

### Chapter 9 Applications to change existing licences or registrations

#### 9.1 General

9.1.1 This chapter sets out certain changes that require the prior approval of the SFC. If you are a licensed corporation or a registered institution and intend to make any such changes, you or the person concerned (e.g. the proposed substantial shareholder of a licensed corporation) should lodge an application with the SFC via the SFC Online Portal or by completing the required paper forms (see paragraph 8.12.2). Individual licensees must submit relevant applications through the SFC Online Portal.

#### 9.2 Licensed corporations

9.2.1 Changes to the licences of licensed corporations that require prior approval:

Type of change (relevant SFO section)	Application fee	Remarks
Addition of regulated activity (Section 127(1))	Type 3: \$129,730 Regulated activity other than Type 3: \$4,740 per RA	If the application is approved, the licensed corporation should return its old licence to the SFC for amendment or cancellation (as the case may be).
Reduction of regulated activity (Section 127(1))	\$200 per RA	If you intend to cease conducting the last regulated activity for which you are licensed, you are only required to notify the SFC of the intended change. No application fee is payable.
Modification or waiver of licensing or registration condition (Section 134)	\$2,000	If the application is approved, the licensed corporation should return the old licence to the SFC for amendment where necessary.
Modification or waiver of "fit and proper" requirements under section 129 (Section 134)	\$4,000	
Change of financial year end <i>and/or</i> adoption of period exceeding 12 months as financial year (Section 155(3))	\$2,000	This is applicable to the licensed corporation as well as associated entities of the licensed corporation which are not authorized financial institutions
Extension of deadline for submission of audited accounts (Section 156(4))	\$2,000	This is applicable to the licensed corporation as well as associated entities of the licensed corporation which are not registered institutions.  SFC may grant an extension if it is satisfied that there are special reasons for doing so. If a licensed corporation or an associated entity anticipates that





Type of change (relevant SFO section)	Application fee	Remarks
		an extension of the submission deadline may be required, it should submit its application to extend the submission period well before the deadline.
New premises to be used for keeping records or documents (Section 130)	\$1,000	This application is required for any intended new business address.  See also: <a href="#">FAQ (Premises for business and record keeping)</a>  The fee is payable on a per application basis regardless of the number of premises proposed in an application.
Becoming a substantial shareholder of a licensed corporation <sup>1</sup> (Section 132)	\$3,000	A person (including a corporation) is required to apply for the SFC's approval before s/he can become or continue to be a substantial shareholder of a licensed corporation  A person, being aware that s/he became a substantial shareholder of a licensed corporation without the SFC's prior approval should as soon as reasonably practicable and in any event within 3 business days after s/he became so aware, apply to the SFC for approval to continue to be a substantial shareholder of the corporation.  The SFC shall refuse this application unless the applicant satisfies the SFC that the corporation will remain fit and proper to be licensed if the application is approved.  This fee is payable on a per application basis regardless of the number of substantial shareholders proposed and the number of licensed corporations concerned in an application.

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<sup>1</sup> A person shall, in relation to a corporation, be regarded as a "substantial shareholder" of the corporation, if he, either alone or with any of his associates –

- (a) has an interest in shares in the corporation –
  - (i) the nominal value of which shares is equal to more than the nominal value of 10% of the issued share capital of the corporation; or
  - (ii) which entitles the person, either alone or with any of his associates and either directly or indirectly, to exercise or control the exercise of more than 10% of the voting power at general meetings of the corporation; or
- (b) holds shares in any other corporation which entitles him, either alone or with any of his associates and either directly or indirectly, to exercise or control the exercise of 35% or more of the voting power at the general meetings of the other corporation, or of a further corporation, which is itself entitled, either alone or with any of its associates and either directly or indirectly, to exercise or control the exercise of more than 10% of the voting power at the general meetings of the corporation.

Please refer to Part 1 of Schedule 1 to the SFO for the definition of "associate", "hold" and other related terms.



## 9.3 Licensed representatives (including responsible officers)

### 9.3.1 Post-licence applications concerning licensed representatives (including responsible officers) are as follows:

Type of change (relevant SFO section)	Application fee	Remarks
Addition of regulated activity (Section 127(1))	Type 3: \$2,420 Regulated activity other than Type 3: \$1,790 per RA	
Reduction of regulated activity (Section 127(1))	\$200 per RA	If you intend to reduce the last regulated activity for which you are licensed, you are only required to notify the SFC of the intended change. No application fee is payable.
Modification or waiver of licensing or registration condition (Section 134)	\$2,000	
Modification or waiver of "fit and proper" requirements under section 129 of the SFO (Section 134)	\$4,000	
Addition of accreditation (Section 122)	\$200	This fee is payable on a per application basis regardless of the number of new principals proposed in an application.
Transfer of accreditation (Section 122)	\$200 per RA	If a licensed representative ceases to be accredited to her/his principal, s/he has 180 days to apply for transfer of accreditation to another corporation before revocation of her/his licence. The SFC has no power to extend this period.  However, where the representative re-applies for a licence in respect of the regulated activities for which s/he had been licensed within 3 years after resigning from her/his previous position, s/he will not be required to sit the relevant entry examinations.
Licensed representative becoming responsible officer (Section 126)	\$2,950 per RA	Please refer to Chapter 5 (Responsible officers).  The application fee payable for Type 7 regulated activity is waived if the applicant's proposed carrying on of Type 7 regulated activity is incidental to the carrying on, or proposed carrying on, of Type 1 or Type 2 regulated activity by that applicant.



## 9.4 Registered institutions

9.4.1 Post-registration applications concerning registered institutions are as follows:

Type of change (relevant SFO section)	Application fee	Remarks
Addition of regulated activity (Section 127(1))	\$23,500 per RA	If the application is approved, the registered institution should return its old certificate of registration to the SFC for amendment or cancellation (as the case may be).
Reduction of regulated activity (Section 127(1))	\$200 per RA	If you intend to reduce the last regulated activity for which you are registered, you are only required to notify the SFC of the intended change. No application fee is payable.
Modification or waiver of licensing or registration condition (Section 134)	\$2,000	If the application is approved, the registered institution should return the old certificate of registration to the SFC for amendment where necessary.
Modification or waiver of "fit and proper" requirements under section 129 of the SFO (Section 134)	\$4,000	
Substantial change in particulars which necessitates the grant of a new certificate of registration (e.g. change in name)	\$200	This fee is waived if the change event is related to another application which requires a separate application fee payable to the SFC (e.g. application for variation of regulated activities, application for modification or waiver of registration conditions) <u>or</u> if the relevant notification is submitted through the SFC Online Portal.



## **Chapter 10 Ongoing obligations**

### **10.1 General**

10.1.1 Licensed corporations, licensed representatives (including responsible officers) and registered institutions must remain fit and proper at all times. They have to comply with all applicable provisions of the SFO and its subsidiary legislation as well as the codes and guidelines issued by the SFC. This chapter highlights certain ongoing statutory obligations imposed on licensed corporations, licensed individuals, registered institutions and associated entities of intermediaries.

### **10.2 Exhibition of licence or certificate of registration**

10.2.1 For licensed corporations and registered institutions, you should exhibit your licence or certificate of registration in a prominent place (such as the client reception area) at your principal place of business. If you have more than one place of business, a certified copy of your licence or certificate must be exhibited in a prominent place at each of your other places of business (section 3 of the Securities and Futures (Miscellaneous) Rules).

10.2.2 If your place of business consists of more than one floor in the same building, it may not be necessary to display your licence or certificate at each of the floors if all the floors share a common client reception area and your licence or certificate is displayed therein.

### **10.3 Availability of responsible officers**

10.3.1 The SFO requires that there must be at least one responsible officer available at all times to supervise the licensed corporation's business of carrying on a regulated activity. If all responsible officers are out of Hong Kong on a business trip or on leave, the licensed corporation complies with such requirement so long as the responsible officer(s) can be contacted (preferably by telephone) whenever necessary and proper internal controls are in place. However, this should be regarded as an interim measure only and the out of town period of the responsible officers should be reasonable for the proper discharge of their duties.

### **10.4 Cessation of business**

#### **Licensed corporations**

10.4.1 The SFC has the power to revoke or suspend your licence (in related to all or certain regulated activity(ies)) under section 195(1)(c) of the SFO, if you do not carry on all or some of the regulated activity(ies) for which you are licensed.



- 10.4.2 In any event, if you intend to cease to carry on any regulated activities, you should notify the SFC as mentioned below, and should also request a revocation, under section 195(1)(d) of the SFO, of either (i) your licence (if all regulated activities under your licence are to be ceased) or (ii) the regulated activity(ies) to be ceased.
- 10.4.3 Notifications should be made to the SFC through the SFC Online Portal (or by completing Form 5) of your intended cessation (as well as the related cessations of your licensed individuals) as soon as reasonably practicable and in any event not later than 7 business days before such intended cessation (section 135(1) of the SFO).
- 10.4.4 If you have ceased to carry on all or any regulated activities for more than one month, you should return the licence certificate to the SFC for cancellation or amendment (as the case may be) within 37 days after the cessation unless the SFC has approved a longer period for such purpose (section 4 of the Securities and Futures (Miscellaneous) Rules).
- 10.4.5 If you cease to carry on all regulated activities, you are also required to submit audited accounts to the SFC within 4 months after the date of cessation (see paragraph 10.9.2).

#### **Registered institutions**

- 10.4.6 If you intend to cease to carry on any regulated activity, you should notify the SFC through the SFC Online Portal (or by submitting Form 5) of your intended cessation as soon as reasonably practicable and in any event not later than 7 business days before such intended cessation. You should also notify the same to the HKMA in writing within that time limit (section 135(1) of the SFO).
- 10.4.7 After you cease to carry on all or any of your registered regulated activities for more than one month, you should return your certificate of registration to the SFC for cancellation or amendment (as the case may be) within 37 days after the cessation unless the SFC has approved a longer period for such purpose (section 4 of the Securities and Futures (Miscellaneous) Rules).

### **10.5 Notification by licensed corporations, licensed individuals and registered institutions<sup>1</sup>**

- 10.5.1 Apart from notifying the SFC of any intended cessation of business, licensed persons and registered institutions are required to notify the SFC of certain changes in the information that they have provided to the SFC in their initial applications. In the case of registered institutions, the notification should be made to both the SFC and the HKMA.

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<sup>1</sup> For reference, please see [“Circular to intermediaries regarding compliance with notification requirements”](#).



- 10.5.2 The changes requiring notification by licensed persons and registered institutions are specified in section 135 of the SFO and Parts 1 to 3 of Schedule 3 to the Securities and Futures (Licensing and Registration) (Information) Rules.
- 10.5.3 In the case of entities belonging to the same group of companies, a licensed corporation or registered institution may make a notification on its behalf and on behalf of other group entities in respect of the same change. The notification should state clearly on whose behalf it is made, and the represented entities should be aware of the notification.

## **10.6 Notification by directors and substantial shareholders of licensed corporations<sup>1</sup>**

- 10.6.1 A director of a licensed corporation is required to notify the SFC of his/her becoming or ceasing to be a director of the corporation within 7 business days after the event takes place (section 135(6) of the SFO).
- 10.6.2 A substantial shareholder of a licensed corporation is required to notify the SFC of changes in his/her particulars as detailed in Part 4 of Schedule 3 to the Securities and Futures (Licensing and Registration) (Information) Rules.

## **10.7 Notification by associated entities of intermediaries**

- 10.7.1 An associated entity<sup>2</sup> of an intermediary is required to notify the SFC within 7 business days of its becoming an associated entity and ceasing to be an associated entity (section 165 of the SFO). The particulars required for notification are set out in sections 3 and 4 of the Securities and Futures (Associated Entities – Notice) Rules. Where there is any change in the particulars notified, the associated entity shall within 7 business days thereafter notify the SFC of such change through the SFC Online Portal (or by completing Form 6).
- 10.7.2 An associated entity is also required to notify the SFC of its financial year end within one month after becoming an associated entity (section 155(1)(b) of the SFO). This requirement does not apply to an associated entity which is an authorized financial institution.

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<sup>2</sup> “Associated entity”, in relation to an intermediary, means a company, or a registered non-Hong Kong company as defined by section 2(1) of the Companies Ordinance (Cap. 622), which –

- (a) is in a controlling entity relationship with the intermediary; and
- (b) receives or holds in Hong Kong client assets of the intermediary.

Please refer to Part 1 of Schedule 1 to the SFO for the definitions of “controlling entity”, “controlling entity relationship” and other associated terms.



## 10.8 Summary of notification requirements

- 10.8.1 Some of the more common change events that require notification are shown in the table below. For details of the notification requirements, you should refer to relevant provisions of the SFO (e.g. sections 123 and 135) and the Securities and Futures (Licensing and Registration) (Information) Rules. For licensed individuals, notifications must be made through the SFC Online Portal.



Types of change / events	Applicable to <sup>3</sup>	Notification time limit
Cessation of business	LC, LR, RI	At least 7 business days before the intended cessation of business
Ceased to act as a licensed representative	LC, LR	Within 7 business days
Ceased to act as a responsible officer <sup>4</sup>	LC, RO	Within 7 business days
Change in name <sup>5</sup>	LC, LR, RI, SS	Within 7 business days
	AE	Within 7 business days
Change in business address	LC <sup>6</sup> , RI	At least 7 business days before the intended change in business address
	AE	Within 7 business days
Change in director or his/her particulars	LC, RI	Within 7 business days
	AE	Within 7 business days
Change in complaints officer or his/her particulars	LC, RI	Within 7 business days
Change in emergency contact person or his/her particulars	LC, RI	Within 7 business days
Change in share capital or shareholding structure	LC, RI, SS	Within 7 business days
	AE	Within 7 business days

<sup>3</sup> LC: Licensed corporation; LR: Licensed representative; RO: Responsible officer; RI: Registered institution; SS: Substantial shareholder; AE: Associated entity

<sup>4</sup> If you cease to act as a responsible officer but remain a licensed representative of your accredited principal for carrying on the same type of regulated activity, please make sure to indicate in the notification to the SFC that you will remain a licensed representative of your accredited principal.

<sup>5</sup> In the case of a licensed corporation, a licensed representative or a registered institution, an application fee of \$200 is payable for the grant of a new licence or certificate of registration as a result of the change in name. However, this fee is waived if the relevant notification is made through the SFC Online Portal.

<sup>6</sup> Please note that an intended change in business address will trigger a requirement under section 130 of the SFO to apply for approval of the new premises for keeping records or documents. The application fee is \$1,000.





Types of change / events	Applicable to <sup>3</sup>	Notification time limit
Change in contact information	LC, LR, RI, SS	Within 7 business days
	AE	Within 7 business days
Significant changes in nature of business carried on and types of services provided	LC, RI	Within 7 business days
Significant changes in business plan <sup>7</sup>	LC, RI	Within 7 business days
Changes in Managers-In-Charge of Core Functions (MICs) (including any new appointment and cessation of appointment) <sup>8</sup>	LC	Within 7 business days
Changes in certain particulars of MICs <sup>8</sup>	LC	Within 7 business days
Change in bank accounts	LC	Within 7 business days
	AE	Within 7 business days
Change in associated entity or its particulars	LC, RI	Within 7 business days
	AE	Within 7 business days
Change in insurance policy maintained under the Securities and Futures (Insurance) Rules	LC	Within 7 business days
Change in auditor's name	LC, RI	Within 7 business days
Give notice of a motion to change auditor in a general meeting, etc. (see section 154 of the SFO)	LC	Within 1 business day
	AE which is not an authorized financial institution	Within 1 business day
Change in executive officer or his/her particulars	RI	Within 7 business days
	AE	Within 7 business days

<sup>7</sup> If a licensed corporation or registered institution intends to launch a corporate website to provide stock quotes, account status and financial commentaries to clients, it is not required to submit an application for approval to the SFC. However, it should complete and submit a notification to inform the SFC of the proposed changes in business plan and any new website address.

<sup>8</sup> For details of the requirements, please refer to the [“Circular to licensed corporations regarding measures for augmenting the accountability of senior management”](#) and [FAQ \(Measures for augmenting senior management accountability in licensed corporations\)](#).



Types of change / events	Applicable to <sup>3</sup>	Notification time limit
Change in status of any authorization to carry on a regulated activity by authority or regulatory organization in Hong Kong or elsewhere <sup>9</sup>	LC, LR, RI	Within 7 business days

## 10.9 Submission of audited accounts, etc.

- 10.9.1 Licensed corporations and associated entities of intermediaries (except those which are authorized financial institutions) are required to submit their audited accounts and other required documents within 4 months after the end of each financial year (section 156(1) of the SFO).
- 10.9.2 If a licensed corporation ceases carrying on all of the regulated activities for which it is licensed, it should submit to the SFC its audited accounts and other required documents, made up to the date of cessation, not later than 4 months after the date of the cessation. The same requirement applies to an associated entity (which is not an authorized financial institution) of an intermediary upon its ceasing to be an associated entity of the intermediary (section 156(2) of the SFO).

## 10.10 Submission of financial resources returns

- 10.10.1 Licensed corporations are required to submit **monthly** financial resources returns to the SFC. However, corporations that are licensed only for Type 4, Type 5, Type 6, Type 9 and/or Type 10 regulated activities and whose licences are subject to the condition that they shall not hold client assets, are only required to submit **semi-annual** financial resources returns (section 56 of the Securities and Futures (Financial Resources) Rules).

## 10.11 Payment of annual fees<sup>10</sup>

- 10.11.1 All licensed persons and registered institutions should pay annual fees within one month after each anniversary date of their licences or registrations (section 138(2) of the SFO). The annual fee amounts are shown in the table below.

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<sup>9</sup> In regard to registrations with the regulatory authorities in the United States, the focus of the notification requirements is on registrations with the Securities and Exchange Commission (SEC), Financial Industry Regulatory Authority (FINRA), Commodity Futures Trading Commission (CFTC) and National Futures Association (NFA) only.

<sup>10</sup> Waived until 31 March 2018. Please see ["Circular regarding waiver of annual licensing fees"](#).



Types of intermediary	Types of regulated activity (RA)	Annual fee amount
LC	RA other than Type 3	\$4,740 per RA <sup>11</sup>
	Type 3	\$129,730
LR (not approved as RO)	RA other than Type 3	\$1,790 per RA <sup>11</sup>
	Type 3	\$2,420
LR (approved as RO)	RA other than Type 3	\$4,740 per RA <sup>11</sup>
	Type 3	\$5,370
RI	RA other than Type 3 and Type 8 <sup>12</sup>	\$35,000 per RA <sup>11</sup>

10.11.2 Failure to make full payment of the annual fee before the due date will attract a surcharge on the outstanding amount and possible suspension and revocation of a licence or registration (sections 138(3) and 195(4)(a) and (6) of the SFO). Details are set out in the table below.

Overdue period	Penalty
Less than 1 month	10% surcharge
Over 1 month but less than 2 months	30% surcharge
Over 2 months but less than 3 months	50% surcharge
Over 3 months but less than 4 months	Suspension <sup>13</sup> of licence or registration
Over 4 months	Revocation of licence or registration

<sup>11</sup> The annual fee payable for Type 7 regulated activity is waived if the person's carrying on of Type 7 regulated activity is incidental to the person's carrying on of Type 1 or Type 2 regulated activity for which the person is licensed or registered.

<sup>12</sup> Section 119 of the SFO does not require authorized financial institutions to seek registration for Type 3 and Type 8.

<sup>13</sup> Subject to the SFC giving 10 business days' notice.



## 10.12 Submission of annual returns

- 10.12.1 Licensed corporations and licensed individuals are required to submit annual returns to the SFC within one month after each anniversary date of their licences (section 138(4) of the SFO). For licensed individuals, annual returns must be submitted through the SFC Online Portal. For licensed corporations, submission through the SFC Online Portal is preferred, but a paper form (Form 7) is also available.
- 10.12.2 Failure to submit annual return before the due date could result in suspension and revocation of the licence (sections 195(4)(b) and (6) of the SFO). Details are set out in the table below.

Overdue period	Penalty
Over 3 months but less than 4 months	Suspension <sup>13</sup> of licence
Over 4 months	Revocation of licence

## 10.13 Continuous professional training (CPT)

- 10.13.1 Licensed corporations and registered institutions are primarily responsible for designing and implementing a continuous education programme best suited to the training needs of the licensed representatives or relevant individuals they engage. Such programmes should enhance the individuals' industry knowledge, skills and professionalism. The firms have to perform due diligence to ensure CPT compliance by the individuals concerned.
- 10.13.2 Licensed individuals and relevant individuals of registered institutions are generally required to complete 5 CPT hours per calendar year for each regulated activity which they may carry out, except for Type 7 regulated activity (providing automated trading services).
- 10.13.3 The CPT requirement for a responsible officer is no different from that of a representative in terms of the number of CPT hours. However, in terms of the content, please refer to paragraphs 7.1 and 7.2 of the ["Guidelines on Continuous Professional Training"](#) for examples relevant to each level. The important point to note is that the training topics must be relevant to the functions to be performed by the person.
- 10.13.4 Further to paragraph 6.2 of the ["Guidelines on Continuous Professional Training"](#), the taking of online courses will be considered as self-study. Provided that there are independent assessments, such as evaluation or test results, and sufficient records to demonstrate fulfilment and duration of training, they can be counted towards acceptable CPT activities. Those online courses have to be of relevance to the licensees' functions.



- 10.13.5 Licensed corporations and registered institutions should keep sufficient records on the programmes and the CPT activities undertaken by the individuals for a minimum of 3 years and be made available for inspection upon request by the SFC or the HKMA. Individuals should also retain their own CPT compliance records for a minimum of 3 years.

For details, please refer to the [“Guidelines on Continuous Professional Training”](#).



## Appendix A

### Fit and Proper Guidelines



## Appendix B

### Guidelines on Competence



## Appendix C

### Guidelines on Continuous Professional Training





## Appendix D

### Licensing Forms