



公 司 註 冊 處
COMPANIES REGISTRY

Guideline on Licensing of
Trust or Company Service Providers

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Chapter 1

INTRODUCTION

- 1.1 Under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Cap. 615 (“the AMLO”), a person commits an offence if the person carries on a trust or company service business in Hong Kong without a licence. The meaning of “trust or company service business” is set out in paragraph 2.2 of this Guideline.
- 1.2 Part 5A of the AMLO provides for the regulation of trust or company service providers (“TCSPs”). The Companies Registry (“CR”) is responsible for the administration of the licensing regime for TCSPs (“the licensing regime”). Any person who wishes to carry on a trust or company service business in Hong Kong has to apply for a TCSP licence and comply with the relevant requirements of the AMLO.

The main duties of a TCSP licensee include:

- Obtaining prior approval from the Registrar of Companies (“the Registrar”) for a person to become the TCSP licensee’s ultimate owner, partner or director
- Reporting changes in particulars to the Registrar
- Reporting cessation of business to the Registrar
- Complying with other ongoing obligations of a TCSP licensee, including the statutory requirements relating to customer due diligence and record-keeping.

- 1.3 This Guideline is published for use by individuals, partnerships and corporations that intend to provide trust or company services in Hong Kong as well as those granted a licence to carry on a trust or company service business in Hong Kong (“TCSP licensees”). It provides information on:

- licensing requirements;
- application procedures;
- fees payable;
- ongoing obligation of TCSP licensees; and
- consequences of failure to comply with the relevant requirements.

This Guideline is intended to explain and supplement relevant statutory requirements and should be read together with the statutory requirements. In case of doubt, you are advised to seek independent legal advice as you see fit.

Chapter 2

LICENSING OF TRUST OR COMPANY SERVICE PROVIDERS

2.1 Who is required to apply for a licence?

A person who carries on or wishes to carry on a trust or company service business in Hong Kong is required to apply for a licence.

2.2 What is a trust or company service business¹?

A trust or company service business means the business of the provision, in Hong Kong, by a person of one or more of the following services to other persons—

- (a) forming corporations or other legal persons;**
- (b) acting, or arranging for another person to act—**
 - (i) as a director or a secretary of a corporation;**
 - (ii) as a partner of a partnership; or**
 - (iii) in a similar position in relation to other legal persons;**
- (c) providing a registered office, business address, correspondence or administrative address for a corporation, a partnership or any other legal person or legal arrangement;**
- (d) acting, or arranging for another person to act—**
 - (i) as a trustee of an express trust² or a similar legal arrangement; or**
 - (ii) as a nominee shareholder for a person other than a corporation whose securities are listed on a recognized stock market.**

2.3 What is the validity period of a licence granted?

Normally, the validity period of a licence granted will be 3 years³.

A licence ceases to be valid⁴—

- if the licensee is an individual carrying on business as a sole proprietor, on the death of the individual;**
- if the licensee is a partnership, on the dissolution of the partnership; or**
- if the licensee is a corporation, on the commencement of the winding up of the corporation.**

¹ Please refer to section 1 of Part 1 of Schedule 1 to the AMLO.

² “Express trust” refers to a trust clearly created by the settlor, usually in the form of a document e.g. a written deed of trust. They are to be contrasted with trusts which come into being through the operation of law and which do not result from the clear intent or decision of a settlor to create a trust or similar legal arrangement (e.g. constructive trust).

³ Please refer to section 53O of the AMLO.

⁴ Please refer to section 53P of the AMLO.

**Consequence of not applying for a licence
to carry on a trust or company service business in Hong Kong**

Section 53F(1) of the AMLO provides that a person commits an offence if the person carries on a trust or company service business in Hong Kong without a licence. Section 53F(2) of the AMLO provides that a person who commits an offence under section 53F(1) is liable on conviction to a fine of HK\$100,000 and imprisonment for 6 months.

**Transitional arrangement
for those who were carrying on a trust or company service business
in Hong Kong before the commencement of operation of the licensing regime⁵**

A person will be deemed to have been granted a licence to carry on a trust or company service business in Hong Kong if immediately before the commencement of operation of the licensing regime (“commencement date”), namely, 1 March 2018, he or she was carrying on a trust or company service business in Hong Kong and for that purpose held a valid business registration certificate.

If the deemed licensee does not apply for a licence to carry on a trust or company service business during the transitional period of 120 days from the commencement date, the deemed licence will end on the expiration of the said transitional period or upon the occurrence of the specified termination events (whichever is earlier).

If the deemed licensee applies for a licence to carry on a trust or company service business during the said transitional period, the deemed licence will end when the application is granted, rejected or withdrawn or upon the occurrence of the specified termination events (whichever is earlier).

The specified termination events referred to in the preceding paragraphs are as follows:-

- the deemed licensee ceases to carry on its trust or company service business in Hong Kong;
- the deemed licensee ceases to hold a valid business registration certificate;
- if the deemed licensee is an individual carrying on business as a sole proprietor – the death of the individual;
- if the deemed licensee is a partnership – the dissolution of the partnership;
- if the deemed licensee is a corporation – the commencement of the winding up of the corporation.

⁵ Please refer to section 53ZQ of the AMLO.

Chapter 3

EXEMPTION

3.1 Are there any licensing exemptions?

Yes, the TCSP licensing requirement (including the fit and proper test) does not apply to⁶:

- **the Government**
- **an authorized institution⁷;**
- **a licensed corporation⁸ that operates a trust or company service business in Hong Kong that is ancillary to the corporation’s principal business;**
- **an accounting professional;**
- **a legal professional; or**
- **a person of a class or description prescribed by the Secretary for Financial Services and the Treasury by regulation.**

3.2 What is an accounting professional?

An accounting professional⁹ means—

- (a) a certified public accountant or a certified public accountant (practising), as defined by section 2(1) of the Professional Accountants Ordinance, Cap. 50 (“the PAO”);
- (b) a corporate practice as defined by section 2(1) of the PAO; or
- (c) a firm of certified public accountants (practising) registered under Part IV of the PAO.

An accounting professional may carry on a trust or company service business in Hong Kong in the form of a sole proprietorship, partnership or corporation. The positions of such entities under the licensing regime are set out as follows:-

⁶ Please refer to section 53B of the AMLO.

⁷ According to section 1 of Part 2 of Schedule 1 to the AMLO, “authorized institution” has the meaning given by section 2(1) of the Banking Ordinance, Cap. 155.

⁸ According to section 1 of Part 2 of Schedule 1 to the AMLO, “licensed corporation” has the meaning given by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance, Cap. 571.

⁹ Please refer to section 1 of Part 2 of Schedule 1 to the AMLO.

**Certified Public Accountant or Certified Public Accountant (Practising) –
Sole Proprietorship**

A certified public accountant/certified public accountant (practising) registered under the PAO carrying on a trust or company service business in Hong Kong as a sole proprietor:

- **is not required to apply for a licence from the Registrar to carry out such business; but**
- is subject to the regulatory regime of the Hong Kong Institute of Certified Public Accountants (“the HKICPA”) in all aspects and in accordance with the provisions of the AMLO and PAO. In particular, such accounting professional will have to comply with the requirements relating to customer due diligence and record-keeping set out in the AMLO¹⁰.

¹⁰ Please refer to Schedule 2 to the AMLO.

Certified Public Accountant or Certified Public Accountant (Practising) – Partnership

- (i) Firm of certified public accountants (practising)
 - **A firm of certified public accountants (practising) as registered under the PAO carrying on a trust or company service business in Hong Kong is not required to apply for a licence from the Registrar to carry out such business.**
 - The firm and its partners are subject to the HKICPA's regulatory regime in all respects and in accordance with the provisions of the AMLO and PAO, including the requirements relating to customer due diligence and record-keeping as set out in the AMLO¹¹.

- (ii) **Partnership (which is not a firm of certified public accountants (practising) but all partners are certified public accountants/certified public accountants (practising) registered under the PAO)**
 - **For a partnership which is not a firm under paragraph (i) above, where all partners are certified public accountants/certified public accountants (practising) registered under the PAO and thus are exempted from the licensing regime, the partnership will be exempted as well and is not required to apply for a licence from the Registrar to carry on such business.**
 - *The partners are subject to the HKICPA's regulatory regime in all aspects and in accordance with the provisions of the AMLO and PAO, including the requirements relating to customer due diligence and record-keeping as set out in the AMLO¹¹.*

- (iii) **Partnership (in which at least one of the partners is not a certified public accountant/certified public accountant (practising)) registered under the PAO**
 - **A partnership in which at least one of the partners is not a certified public accountant/certified public accountant (practising) registered under the PAO is required to apply for a licence from the Registrar for carrying on a trust or company service business. The partnership is subject to the regulatory regime of the Registrar, but the Registrar will not conduct fit and proper test on the partners who are accounting professionals.**
 - The partnership (and all partners) will have to comply with the requirements relating to customer due diligence and record-keeping as set out in the AMLO¹¹

¹¹ Please refer to Schedule 2 to the AMLO.

Corporate Practice, etc.

- (i) Corporate Practice
 - **A corporate practice as defined in the PAO that carries on a trust or company service business in Hong Kong is not required to apply for a licence from the Registrar.**
 - The corporate practice and its directors are subject to the HKICPA's regulatory regime in all respects and in accordance with the provisions of the AMLO and PAO , including the requirements relating to customer due diligence and record-keeping as set out in the AMLO¹².

- (ii) Corporation (other than a corporate practice)
 - **All corporations (other than a corporate practice as defined in the PAO) are required to apply for a licence from the Registrar for carrying on a trust or company service business. The corporation is subject to the regulatory regime of the Registrar, but the Registrar will not conduct fit and proper test on the directors who are accounting professionals.**
 - The corporation will have to comply with the requirements relating to customer due diligence and record-keeping as set out in the AMLO¹².

3.3 What is a legal professional?

A legal professional¹³ means—

- (a) a solicitor as defined by section 2(1) of the Legal Practitioners Ordinance (Cap. 159) (“the LPO”); or
- (b) a foreign lawyer as defined by section 2(1) of the LPO.

A legal professional may carry on a trust or company service business in Hong Kong in the form of a sole proprietorship, partnership or corporation. The positions of such entities under the licensing regime are set out as follows:-

¹² Please refer to Schedule 2 to the AMLO.

¹³ Please refer to section 1 of Part 2 of Schedule 1 to the AMLO.

Legal Professional – Sole proprietorship

A legal professional carrying on a trust or company service business in Hong Kong as a sole proprietor

- **is not required to apply for a licence from the Registrar to carry out such business; but**
- is subject to the regulatory regime of the Law Society of Hong Kong (“the Law Society”) in all aspects and in accordance with the provisions of the AMLO and LPO. In particular, such legal professional will have to comply with the requirements relating to customer due diligence and record-keeping as set out in the AMLO¹⁴.

Legal Professional – Partnership

(i) Partnership (in which all partners are legal professionals)

- **For a partnership in which all partners are legal professionals and thus are exempted from the licensing regime, the partnership will be exempted as well and is not required to apply for a licence from the Registrar to carry on such business.**
- The partners are subject to the Law Society’s regulatory regime in all aspects and in accordance with the provisions of the AMLO and LPO, including the requirements relating to customer due diligence and record-keeping as set out in the AMLO¹⁴.

(ii) Partnership (in which at least one of the partners is not a legal professional)

- **A partnership in which at least one of the partners is not a legal professional is required to apply for a licence from the Registrar for carrying on a trust or company service business. The partnership is subject to the regulatory regime of the Registrar, but the Registrar will not conduct fit and proper test on the partners who are legal professionals.**
- The partnership (and all partners) will have to comply with the requirements relating to customer due diligence and record-keeping as set out in the AMLO¹⁴.

¹⁴ Please refer to Schedule 2 to the AMLO.

Legal Professional – Corporation

- **All corporations are required to apply for a licence from the Registrar for carrying on a trust or company service business. The corporation is subject to the regulatory regime of the Registrar, but the Registrar will not conduct fit and proper test on the directors who are legal professionals.**
- The corporation will have to comply with the requirements relating to customer due diligence and record-keeping as set out in the AMLO¹⁵.

¹⁵ Please refer to Schedule 2 to the AMLO.

Chapter 4

FIT AND PROPER PERSON FOR CARRYING ON TRUST OR COMPANY SERVICE BUSINESS

4.1 What is the “fit and proper test”?

The fit and proper test is a **statutory requirement for determining whether a TCSP and every relevant person of the TCSP are fit and proper to carry on or be associated with a trust or company service business.** It is part of the process of the following types of application:

- application for a TCSP licence (Form TCSP1);
- application for renewal of a TCSP licence (Form TCSP2); and
- application for an approval for a person to become an ultimate owner, a partner or a director of a TCSP licensee (Form TCSP3)

4.2 Who are subject to the fit and proper test?

Unless exempted from the fit and proper test, **the following persons are subject to the fit and proper test and a Statement as regards Fit and Proper Criteria of the persons (a Form TCSP4 for an individual or a Form TCSP5 for a corporation) should be delivered together with the respective application form (Form TCSP1, TCSP2 or TCSP3):**

(a) **Application for the grant (Form TCSP1) or renewal (Form TCSP2) of a TCSP licence:-**

- (i) For an applicant that is an individual carrying on business as a sole proprietor,
 - **the individual; and**
 - **each ultimate owner;**
- (ii) For an applicant that is a partnership,
 - **each partner; and**
 - **each ultimate owner;**
- (iii) For an applicant that is a corporation,
 - **each director; and**
 - **each ultimate owner.**

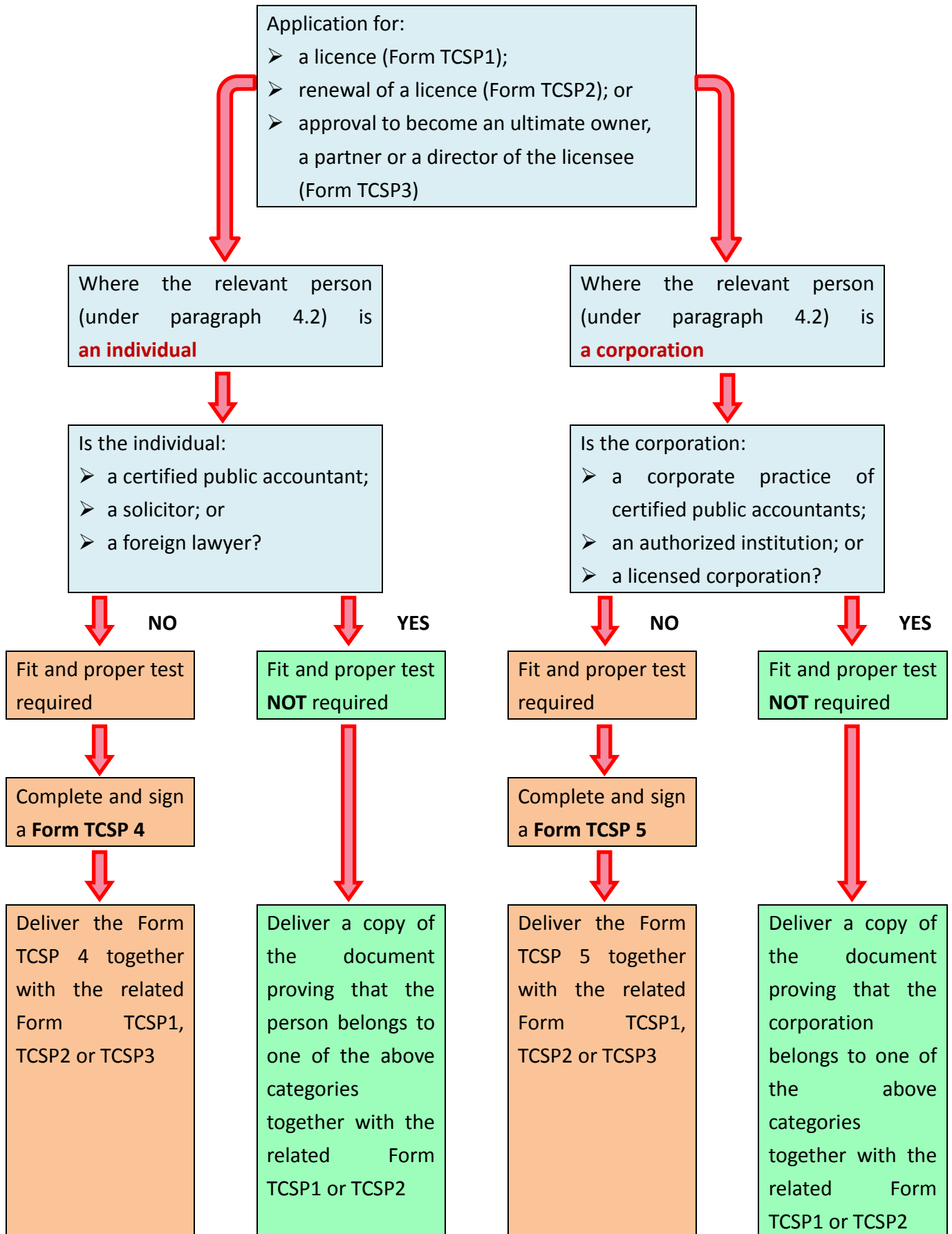
(b) **Application by a TCSP licensee for an approval for a person to become an ultimate owner, a partner or a director of the TCSP licensee (Form TCSP3):-**

- **the person proposed to become an ultimate owner, a partner or a director of the TCSP licensee.**

Persons exempted from the fit and proper test

- The types of persons mentioned in paragraph 3.1 of this Guideline are not subject to the fit and proper test. They are also not required to obtain the Registrar's approval to become a TCSP licensee's ultimate owner/partner/director.
- **Instead of submitting a Form TCSP4 or Form TCSP5, a copy of the document proving that the person belongs to an exempted type of person should be delivered together with the related application form.** The following flow chart illustrates who should undergo the fit and proper test and the documents required.

Illustration on the application of the fit and proper test



4.3 What is an ultimate owner?

The definitions of an “ultimate owner”¹⁶ in relation to an individual, a partnership and a corporation are set out respectively in the following table:

Meaning of ultimate owner in relation to:		
an individual (referred hereunder as “the Individual”)	a partnership	a corporation
<ul style="list-style-type: none"> ➤ another individual who ultimately owns or controls the trust or company service business of the Individual; or ➤ another person on whose behalf the Individual is acting. 	<ul style="list-style-type: none"> ➤ an individual who is entitled, directly or indirectly, to more than a 25% share of the capital or profits of the partnership; ➤ an individual who controls, directly or indirectly, more than a 25% share of the capital or profits of the partnership; ➤ an individual who is, directly or indirectly, entitled to exercise or control the exercise of more than 25% of the voting rights in the partnership; or ➤ an individual who exercises ultimate control over the management of the partnership. 	<ul style="list-style-type: none"> ➤ an individual who owns or controls, directly or indirectly, including through a trust or bearer share holding, more than 25% of the issued share capital of the corporation; ➤ an individual who is, directly or indirectly, entitled to exercise or control the exercise of more than 25% of the voting rights at general meetings of the corporation; or ➤ an individual who exercises ultimate control over the management of the corporation.

¹⁶ Please refer to section 53A of the AMLO.

4.4 What are the criteria for fit and proper test¹⁷?

In determining whether a person is a fit and proper person, the Registrar must, in addition to any other matters that the Registrar considers relevant, have regard to the following matters:

- (a) whether the person has been convicted of an offence –
 - (i) under the AMLO¹⁸;
 - (ii) relating to terrorist acts¹⁹;
 - (iii) relating to drug trafficking²⁰; or
 - (iv) relating to an organized or serious crime²¹;
- (b) whether the person has a conviction in a place outside Hong Kong –
 - (i) for an offence in respect of an act that would have constituted an offence specified in paragraph (a) above had it been done in Hong Kong;
 - (ii) for an offence relating to money laundering or terrorist financing; or
 - (iii) for an offence for which it was necessary to find that the person had acted fraudulently, corruptly or dishonestly;
- (c) whether the person has failed to comply with a requirement imposed under the AMLO or a regulation made by the Registrar;
- (d) if the person is an individual, whether he or she is an undischarged bankrupt or is the subject of any bankruptcy proceedings under the Bankruptcy Ordinance (Cap. 6);
- (e) if the person is a corporation, whether it is in liquidation or is the subject of a winding up order, or there is a receiver appointed in relation to it.

The Registrar will request for additional information and/or documentary evidence in support whenever necessary. In some cases, the Registrar may invite the person to attend interviews in our office to answer any questions concerning the information provided.

**Consequences if the Registrar is not satisfied that
the person is a fit and proper person**

The Registrar may decide not to grant or renew a licence, or not to give an approval for the person to become an ultimate owner, a partner or a director of the TCSP licensee (please refer to Chapters 5, 6 and 8 of this Guideline for further information).

¹⁷ Please refer to section 53I of the AMLO.

¹⁸ Please refer to section 53I(a)(i) of the AMLO.

¹⁹ Please refer to section 14 of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575).

²⁰ Please refer to section 25(1), 25A(5) or (7) of, and Schedule 1 to, the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405).

²¹ Please refer to section 25(1), 25A(5) or (7) of, and Schedules 1 and 2 to, the Organized and Serious Crimes Ordinance (Cap. 455).

Chapter 5

GRANT OF LICENCE

5.1 How to make an application for a licence?

You should make your application using Form TCSP1 – “Application for a Trust or Company Service Provider Licence”²². For each person subject to the fit and proper test, a Form TCSP4 or Form TCSP5 duly signed by the person must be delivered together with the Form TCSP1 (please refer to Chapter 4 – “Fit and proper person for carrying on trust or company service business” of this Guideline for more information regarding fit and proper test).

You must make sure you provide all the information required in the application form and all the documents required; otherwise we cannot process your application. The application must be accompanied by a copy of a valid business registration certificate.

The Form TCSP1 and Form TCSP4 and/or Form TCSP5 can be delivered electronically on the website of the CR’s Trust and Company Service Providers Licensing Regime (www.tcsp.cr.gov.hk) or in person or by post to our office.

The form and contents of the TCSP licence²³

- The TCSP licence is in a form specified by the Registrar.
- The TCSP licence specifies the period for which the licence is valid and the name and business address of the licensee.
- The TCSP licence will be available for download at the website of the CR’s Trust and Company Service Providers Licensing Regime (www.tcsp.cr.gov.hk) if the application is delivered electronically.

5.2 Is there a fee?

Yes. An application fee of HK\$3,440 and an additional fee of HK\$975 for each person subject to the fit and proper test are payable. The fees paid will not be refunded.

²² Please refer to section 53G of the AMLO.

²³ Please refer to section 53N of the AMLO.

5.3 What will I receive?

If your application is successful, a licence will be issued to you. Your name will be included in the register of TCSP licensees. If the Registrar decides not to grant a licence, you will be notified in writing of the decision and the reasons for the decision.

Review of the decision of the Registrar on not to grant a licence

The applicant may apply to the Anti-Money Laundering and Counter-Terrorist Financing Review Tribunal for a review of the decision within the period ending 21 days after the notice informing the applicant of the decision has been sent.

Chapter 6

RENEWAL OF LICENCE

6.1 When will I need to renew my TCSP licence?

A TCSP licence is usually valid for 3 years and the validity period is stated on the licence (please refer to paragraph 2.3 above for details). **If you wish to continue to carry on your trust or company service business upon the expiry of your licence, you must make an application for renewal of licence at least 60 days before the licence is due to expire²⁴.**

6.2 How to make an application for renewal of a licence?

You should make your application using Form TCSP2 – “Application for Renewal of a Trust or Company Service Provider Licence”. For each person subject to the fit and proper test, a Form TCSP4 or Form TCSP5 duly signed by the person must be delivered together with the Form TCSP2 (please refer to Chapter 4 – “Fit and proper person for carrying on trust or company service business” of this Guideline for more information regarding fit and proper test).

You must make sure you provide all the information required in the application form and all the documents required; otherwise we cannot process your application. The application must be accompanied by a copy of a valid business registration certificate.

The Form TCSP2 and Form TCSP4 and/or Form TCSP5 can be delivered electronically on the website of the CR’s Trust and Company Service Providers Licensing Regime (www.tcsp.cr.gov.hk) or in person or by post to our office.

When a TCSP licence expires before the determination of an application for renewal of the licence²⁵

Unless the application for renewal of the licence is withdrawn or the licence is revoked or suspended, the licence will remain in force until it is renewed, or if it is not renewed, until the decision not to renew takes effect.

²⁴ Please refer to section 53K(2)(a) of the AMLO.

²⁵ Please refer to section 53K(4) of the AMLO.

6.3 Is there a fee?

Yes. An application fee of HK\$2,910 and an additional fee of HK\$975 for each person subject to the fit and proper test are payable. The fees paid will not be refunded.

6.4 What will I receive?

If your application is successful, a licence will be issued to you. If the Registrar decides not to renew your licence, you will be notified in writing of the decision and the reasons for the decision.

Review of the decision of the Registrar on not to renew a licence

The TCSP licensee may apply to the Anti-Money Laundering and Counter-Terrorist Financing Review Tribunal for a review of the decision within the period ending 21 days after the notice informing the licensee of the decision has been sent.

6.5 I have duly applied for renewal of my TCSP licence. The Registrar is considering my application but my current licence has now expired. Do I need to cease my trust or company service before my licence is renewed?

No. Unless your application for renewal of the licence is withdrawn or the current licence is revoked or suspended by the Registrar, your current licence will remain in force until it is renewed, or if it is not renewed, until the decision not to renew takes effect.

6.6 My TCSP licence is due to expire in less than 60 days and I have not yet made an application for renewal. Can I still apply for renewal of my licence?

No, your application for renewal of licence will not be accepted. However, you may apply for a new TCSP licence if you still wish to carry on a trust or company service business in Hong Kong after your current licence expires. The Registry will process your application for a new TCSP licence and a new licence will be granted to you if your application is successful. The new TCSP licence will bear a new licence number.

If your licence has expired before a new licence is granted, you must cease carrying on your trust or company service business before the new licence is granted. Otherwise, you commit an offence of carrying on a trust or company service business in Hong Kong without a licence and are liable on conviction to a fine of HK\$100,000 and imprisonment for 6 months.

6.7 I forget to renew my TCSP licence and it has expired. What should I do?

You must cease to carry on your trust or company service business in Hong Kong immediately. Otherwise, you commit an offence of carrying on a trust or company service business in Hong Kong without a licence and are liable on conviction to a fine of \$100,000 and imprisonment for 6 months.

You may apply for a TCSP licence if you still wish to carry on a trust or company service business in Hong Kong. However, you may only carry on a trust or company service business in Hong Kong after a TCSP licence is granted (please refer to Chapter 5 – “Grant of licence” of this Guideline for more information regarding application for a licence).

Chapter 7

CONDITIONS IMPOSED WHEN GRANTING OR RENEWING A LICENCE

7.1 When will the Registrar impose conditions on a TCSP licensee?

The Registrar may impose conditions on a TCSP licence when:

- **granting a licence²⁶;**
- **renewing a licence²⁷; or**
- **the Registrar is satisfied that it is reasonable to do so in the circumstances²⁸.**

When renewing a licence or when the Registrar is satisfied that it is reasonable to do so in the circumstances, the Registrar may impose a new condition or amend or remove a previously imposed condition.

7.2 How will I know that a condition has been imposed, amended or removed?

You will be notified in writing of the new or amended conditions and the reasons for the decision. If a previously imposed condition is removed, you will also be notified.

7.3 When will the imposition, amendment or removal of condition take effect?

The imposition, amendment or removal of a condition takes effect when you receive the notice or at the time specified in the notice, whichever is later.

7.4 What can I do if I am not satisfied with the Registrar's decision to impose or amend condition?

You may apply to the Anti-Money Laundering and Counter-Terrorist Financing Review Tribunal for a review of the decision within the period ending 21 days after the notice informing you of the decision has been sent.

Consequences of any failure by the TCSP licensee to comply with the imposed condition

The Registrar may take disciplinary actions against the licensee under section 53Z(2)(a)(iii) of the AMLO for contravention of a condition of the licence by the licensee (please refer to Chapter 13 – “Disciplinary actions” of this Guideline for more information regarding disciplinary actions which may be taken by the Registrar).

²⁶ Please refer to section 53J(1) of the AMLO.

²⁷ Please refer to section 53L(1) of the AMLO.

²⁸ Please refer to section 53M(1) of the AMLO.

Chapter 8

ADDITION OF NEW ULTIMATE OWNERS, PARTNERS OR DIRECTORS

8.1 Being a TCSP licensee, can I add an ultimate owner, a partner or a director and then notify the Registrar?

No. You must obtain the prior written approval from the Registrar for a person to become a new ultimate owner, partner or director of your business²⁹. However, if the person belongs to any type of person stated in paragraph 3.1 of this Guideline, such as a certified public accountant, a solicitor or a foreign lawyer, there is no need to obtain the Registrar's prior approval.

8.2 How can I apply for the Registrar's approval?

You should apply for the Registrar's approval using Form TCSP3 – "Application for Approval to Become an Ultimate Owner / a Partner / a Director of a Trust or Company Service Provider Licensee". For each person in respect of whom the application is made, a Form TCSP4 or Form TCSP5 duly signed by the person must be delivered together with the Form TCSP3 (please refer to Chapter 4 – "Fit and proper person for carrying on trust or company service business" of this Guideline for more information regarding fit and proper test).

The Form TCSP3 and Form TCSP4 and/or Form TCSP5 can be delivered electronically on the website of the CR's Trust and Company Service Providers Licensing Regime (www.tcsp.cr.gov.hk) or in person or by post to our office.

What should I do if the person to become an ultimate owner, a partner or a director is a person exempted from the fit and proper test, for example, a certified public accountant or a solicitor?

As mentioned in paragraph 8.1 above, an approval of the Registrar is not required. However, within one month beginning on the date on which the person becomes an ultimate owner, a partner or a director of your business, you must notify the Registrar of such change (please refer to Chapter 9 – "Notification of changes in particulars" of this Guideline for more information regarding notification to the Registrar of changes in particulars).

²⁹ Please refer to sections 53S(1), 53T(1) and 53U(1) of the AMLO.

8.3 Is there a fee?

Yes. An application fee of HK\$1,140 is payable for each person in respect of whom the application is made. The fee paid will not be refunded.

8.4 What will I receive?

If your application is successful, an approval in writing will be issued to you. If the Registrar decides not to give an approval, a notice in writing with the reasons for the decision will be issued to you.

8.5 What should I do after I receive the written approval?

You can make necessary arrangements for the person to become an ultimate owner, a partner or a director of your business. Within one month beginning on the date on which the approved person becomes an ultimate owner, a partner or a director of your business, you must notify the Registrar of such change (please refer to Chapter 9 – “Notification of changes in particulars” of this Guideline for more information regarding notification to the Registrar of changes in particulars).

**Review of the decision of the Registrar on
not to grant approval for a person to become
an ultimate owner, a partner or a director of a TCSP licensee**

The TCSP licensee may apply to the Anti-Money Laundering and Counter-Terrorist Financing Review Tribunal for a review of the decision within the period ending 21 days after the notice informing the licensee of the decision has been sent.

Consequences of any failure by the TCSP licensee to obtain the Registrar's approval before a person becomes a licensee's ultimate owner, partner or director

- A person must not become an ultimate owner of a licensee, a partner of a licensee that is a partnership or a director of a licensee that is a corporation unless the Registrar has, on application of the licensee, given approval in writing³⁰.
- **A person who, without reasonable excuse, contravenes the above requirement commits an offence and is liable on conviction to a fine of HK\$50,000 and imprisonment for 6 months³¹.**
- **The Registrar may also take disciplinary actions against the TCSP licensee for the contravention³².**

³⁰ Please refer to sections 53S(1), 53T(1) and 53U(1) of the AMLO.

³¹ Please refer to sections 53S(6), 53T(6) and 53U(6) of the AMLO.

³² Please refer to section 53Z(2)(b) of the AMLO.

Chapter 9

NOTIFICATION OF CHANGES IN PARTICULARS

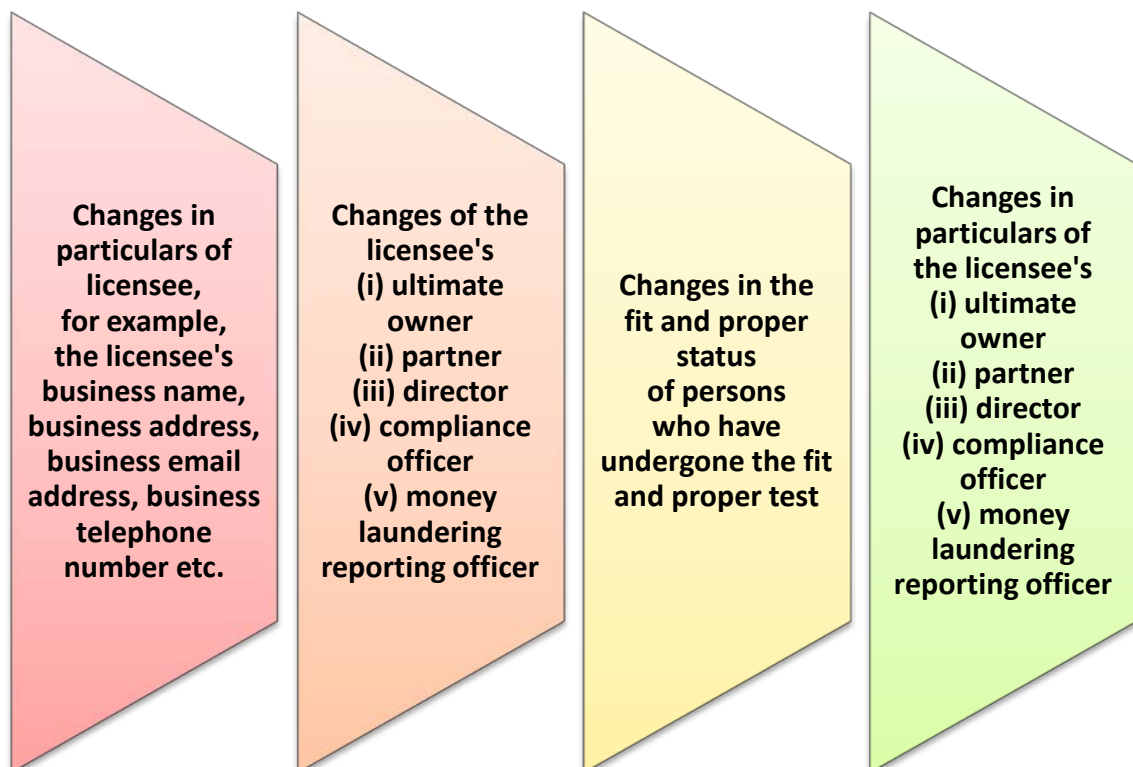
9.1 If there is a change in the particulars previously provided to the Registrar in connection with my application for the grant or renewal of the licence, should I inform the Registrar?

Yes. You must notify the Registrar of the change within 1 month beginning on the date on which the change takes place³³.

9.2 How do I notify the Registrar about such change?

You should notify the Registrar of the changes in particulars using Form TCSP6 – “Notification of Changes in Particulars”. The Form TCSP6 can be delivered electronically on the website of the CR’s Trust and Company Service Providers Licensing Regime (www.tcsp.cr.gov.hk) or in person or by post to our office. No fee is required to be paid when the form is submitted.

Types of changes which a TCSP licensee must notify the Registrar



³³ Please refer to section 53W(1) of the AMLO.

9.3 If there is a change in the fit and proper status of a person who has undergone the fit and proper test, will this affect my TCSP licence if I notify the Registrar of the change?

If you or other person(s) of your trust or company service business who have undergone the fit and proper test have been convicted of any offences or have contravened any of the requirements under the AMLO, **you must notify the Registrar using Form TCSP6 within one month beginning on the date on which the conviction or contravention takes place.**

The Registrar will conduct fit and proper test on the person whose fit and proper status has been changed (please refer to Chapter 4 – “Fit and proper person for carrying on trust or company service business” of this Guideline for more information regarding the criteria for fit and proper test). **If the Registrar is no longer satisfied that the person is fit and proper for carrying on or, as the case may be, to be associated with the trust or company service business, your licence may be revoked or suspended** (please refer to Chapter 11 – “Revocation or suspension of licence” of this Guideline for more information regarding the revocation or suspension of a TCSP licence).

Consequences of any failure by the TCSP licensee to notify the Registrar of changes in particulars

- A licensee who, without reasonable excuse, contravenes the requirement stated in paragraph 9.1 above commits an offence³⁴ and is liable on conviction to a fine of HK\$50,000.
- The Registrar may take disciplinary actions against the TCSP licensee³⁵.

³⁴ Please refer to section 53W(4) of the AMLO.

³⁵ Please refer to section 53Z(2)(b) of the AMLO.

Chapter 10

CESSATION OF BUSINESS

10.1 I intend to cease to carry on my trust or company service business in Hong Kong, do I need to notify the Registrar?

Yes. You should notify the Registrar of your intention to cease business and the intended date of cessation.³⁶ Form TCSP7 – “Notification of Cessation of Trust or Company Service Business” can be used to report such intention and intended date of cessation of business. The Form TCSP7 should be **submitted before the intended date of cessation** and can be delivered electronically on the website of the CR’s Trust and Company Service Providers Licensing Regime (www.tcsp.cr.gov.hk) or in person or by post to our office.

10.2 When will my licence be cancelled?

The Registrar will, after the receipt of notification³⁷, cancel your licence with effect from the intended date of cessation.

10.3 Do I need to return my TCSP licence to the CR?

No. Your name will be removed from the register of TCSP licensees.

10.4 Is there a fee?

No fee is required to be paid for submitting the form.

Consequences of any failure by the TCSP licensee to notify the Registrar of the cessation of trust or company service business

- A licensee who, without reasonable excuse, contravenes the requirement stated in paragraph 10.1 above commits an offence³⁸ and is liable on conviction to a fine of HK\$50,000.
- The Registrar may take disciplinary actions against the TCSP licensee³⁹.

³⁶ Please refer to section 53X(1) of the AMLO.

³⁷ Please refer to section 53X(2) of the AMLO.

³⁸ Please refer to section 53X(4) of the AMLO.

³⁹ Please refer to section 53Z(2)(b) of the AMLO.

Chapter 11

REVOCATION OR SUSPENSION OF LICENCE

11.1 Under what circumstances may the Registrar revoke or suspend a TCSP licence?

The Registrar may revoke or suspend a TCSP licence if the Registrar is no longer satisfied that the licensee⁴⁰, any ultimate owner, partner or director of the licensee is a fit and proper person for carrying on or, as the case may be, to be associated with a trust or company service business⁴¹.

11.2 When will the revocation or suspension of licence be effective?

The Registrar will inform the licensee of the revocation or suspension by notice in writing⁴². The revocation or suspension of licence takes effect at the time specified in the notice⁴³.

11.3 What will be the impact if the licence of a TCSP is suspended?

The licensee must comply with the terms of the suspension stated in the notice. The licensee cannot carry on a trust or company service business in Hong Kong for the duration of the suspension specified in the notice.

11.4 What will be the impact if the licence of a TCSP is revoked?

The licence ceases to be valid and the person commits an offence if the person continues to carry on a trust or company service business in Hong Kong.

11.5 Will the licensee be given an opportunity to be heard before the Registrar revokes or suspends the licence?

Yes. Before the Registrar revokes or suspends a licensee, the licensee will be given an opportunity to be heard⁴⁴.

Review of the decision of the Registrar on the revocation or suspension of licence

The TCSP licensee may apply to the Anti-Money Laundering and Counter-Terrorist Financing Review Tribunal for a review of the decision within the period ending 21 days after the notice informing the licensee of the decision has been sent.

⁴⁰ "Licensee" here refers to the situation where the licensee is an individual.

⁴¹ Please refer to section 53Q of the AMLO.

⁴² Please refer to section 53R(1) of the AMLO.

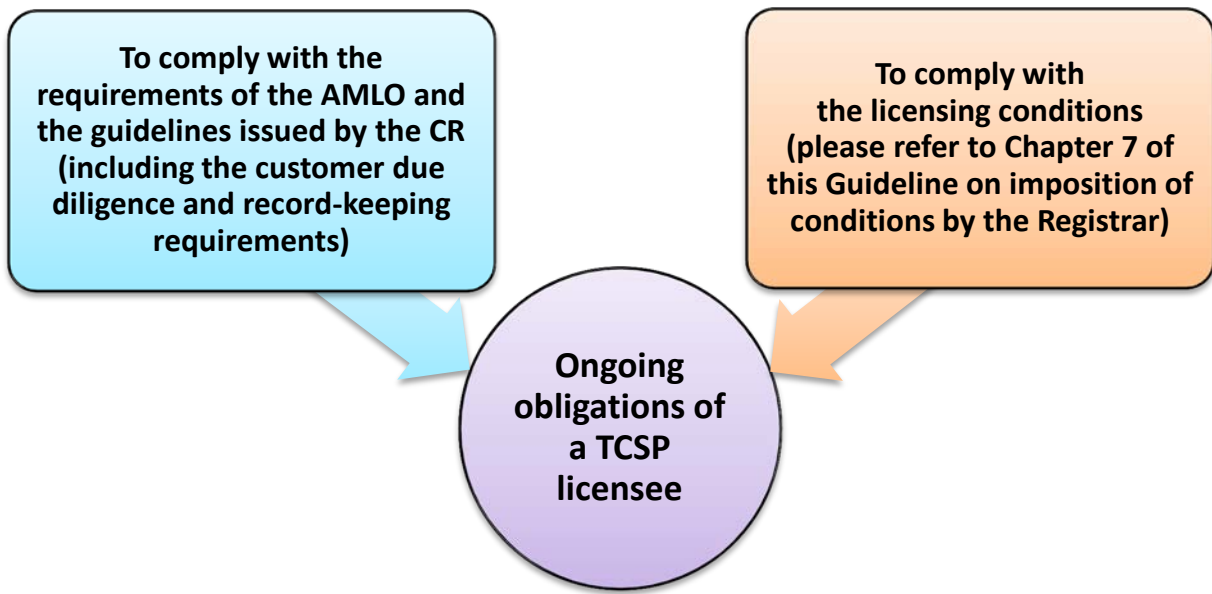
⁴³ Please refer to section 53R(4) of the AMLO.

⁴⁴ Please refer to section 53R(3) of the AMLO.

Chapter 12

ONGOING OBLIGATIONS OF LICENSEE

12.1 What are the ongoing obligations of a TCSP licensee?



12.2 Where can I find the requirements under the AMLO?

You should comply with the requirements of the AMLO and the guidelines issued by the CR which are available for download at the website of the CR's Trust and Company Service Providers Licensing Regime (www.tcsp.cr.gov.hk).

The requirements under the AMLO include **the customer due diligence and record-keeping requirements prescribed in Schedule 2 to the AMLO**. To facilitate compliance, the CR has also issued the Guideline on Compliance of Anti-Money Laundering and Counter-Terrorist Financing Requirements for Trust or Company Service Providers which is available for download at the website of the CR's Trust and Company Service Providers Licensing Regime (www.tcsp.cr.gov.hk). **The Registrar may take disciplinary actions against a TCSP licensee if the licensee contravenes a requirement set out in Schedule 2 of the AMLO that applies to the licensee⁴⁵.**

⁴⁵ Please refer to section 53Z(2)(a)(i) of the AMLO.

Besides, you are required to cooperate with the CR and allow staff of the CR to enter your business premises to conduct inspections for the purpose of ascertaining whether you have complied with the AMLO, including the inspection and making copies of records or documents, and making enquiries about any record or document relating to the business carried on, or any transaction carried out, by the TCSP licensee. A TCSP licensee who fails to give the CR staff access to, answer any question regarding or produce such record or document commits an offence and is liable to a fine and imprisonment⁴⁶.

Business premises subject to inspection⁴⁷

Business premises means any premises at which the TCSP licensee carries on business, including a place of business used for the purpose of:

- the administration of the licensee's affairs or business;
- the processing of transactions; or
- the storage of documents, data or records.

In case of doubt, you are advised to seek independent legal advice.

⁴⁶ Please refer to section 10 of the AMLO

⁴⁷ Please refer to section 9(15)(i) of the AMLO.

Chapter 13

DISCIPLINARY ACTIONS

Examples of situations in which the Registrar may take disciplinary actions⁴⁸

- The TCSP licensee contravenes any customer due diligence and record-keeping requirement;
- The TCSP licensee contravenes any of the related regulations made by the Registrar pursuant to the AMLO;
- The TCSP licensee contravenes a condition of the TCSP licence;
- A person becomes an ultimate owner, a partner or a director of a TCSP licensee without the prior approval of the Registrar;
- The TCSP licensee fails to notify the Registrar of any change in particulars within 1 month beginning on the date on which the change takes place; and
- The TCSP licensee fails to notify the Registrar before the intended date of cessation of its intention to cease to carry on its trust or company service business in Hong Kong and the intended date of cessation.

13.1 What disciplinary actions may be taken by the Registrar against TCSP licensees?

In cases of contravention, the Registrar may exercise one or more of the following disciplinary powers against a TCSP licensee:

- **publicly reprimand the licensee;**
- **order the licensee to take, by a date specified by the Registrar, any action specified by the Registrar for the purpose of remedying the contravention; and**
- **order the licensee to pay a pecuniary penalty not exceeding HK\$500,000⁴⁹.**

For details regarding the imposition of pecuniary penalty, please refer to the Guideline on Imposition of Pecuniary Penalty which is available for download at the website of the CR's Trust and Company Service Providers Licensing Regime (www.tcsp.cr.gov.hk).

⁴⁸ Please refer to section 53Z(2) of the AMLO.

⁴⁹ Please refer to section 53Z(3) of the AMLO.

13.2 If the licensee is a corporation, under what circumstances may the Registrar take disciplinary action against its directors?

If a licensee which is a corporation contravenes any customer due diligence and record-keeping requirement and either the contravention was caused or allowed by a director of the corporation or the director failed to take reasonable steps to prevent the contravention, the Registrar may take disciplinary action against the director as if the director were a licensee⁵⁰ except where the director is an accounting professional⁵¹ or a legal professional⁵².

13.3 Will the licensee be given an opportunity to be heard before the Registrar takes any disciplinary action?

Yes. Before the Registrar takes any disciplinary action against a licensee, the licensee will be given an opportunity to be heard.

Review of the decision of the Registrar in any disciplinary action

The TCSP licensee may apply to the Anti-Money Laundering and Counter-Terrorist Financing Review Tribunal for a review of the decision within the period ending 21 days after the notice informing the licensee of the decision has been sent.

⁵⁰ Please refer to section 53ZD of the AMLO.

⁵¹ Please refer to section 1 of Part 2 of Schedule 1 to the AMLO for the definition of “accounting professional”.

⁵² Please refer to section 1 of Part 2 of Schedule 1 to the AMLO for the definition of “legal professional”.

Chapter 14

REGISTER OF LICENSEES

14.1 What is the register of licensees?

The register of licensees is maintained by the Registrar as required by the AMLO. **The register contains the name and business address of every TCSP licensee.** It is open for public inspection free of charge on the website of the CR's Trust and Company Service Providers Licensing Regime at www.tcsp.cr.gov.hk.

14.2 If my TCSP licence has already expired and I have not applied for renewal of the licence, will my name still appear in the register?

No. In that case, you are no longer a TCSP licensee and your name will no longer appear in the register.

14.3 What can I do if I need a document issued by the CR to prove that I am on the register of TCSP licensees?

You may consider obtaining a certified copy of an entry in or an extract from the register showing your name or a certificate⁵³ issued by the Registrar stating that your name has been entered in the register. You can apply for a certified copy or a certificate:

- online on the website of the CR's Trust and Company Service Providers Licensing Regime (www.tcsp.cr.gov.hk); or
- in person at or by post to Unit 1208, 12th Floor, One Kowloon, 1 Wang Yuen Street, Kowloon Bay, Kowloon, Hong Kong.

The fees for certifying a copy of an entry in or an extract from the register and providing a certificate are HK\$260 and HK\$385 respectively.

⁵³ Please refer to section 53E(1)(b) of the AMLO.

Chapter 15
FEES SCHEDULE

	Particulars	Fee (HK\$)
1	Application for the grant of a licence	3,440
	plus for each person who is subject to the fit and proper test	975 for each person
2	Application for the renewal of a licence	2,910
	plus for each person who is subject to the fit and proper test	975 for each person
3	Application for an approval to become an ultimate owner / a partner / a director of a TCSP licensee	1,140 for each person
4	Certifying a copy of an entry in or extract from the register of TCSP licensees	260 per copy
5	<p>Providing a certificate regarding the following referred to in section 53E(1)(b) of the AMLO:-</p> <ul style="list-style-type: none"> ➤ the name of a person has been entered in the register of TCSP licensees ➤ the name of a person has not been entered in the register of TCSP licensees ➤ the name of a person has been removed from the register of TCSP licensees ➤ the name of a person has not been removed from the register of TCSP licensees 	385 per copy

Note: Any fee paid will not be refunded.

Chapter 16

ENQUIRIES

More information relating to the licensing of trust or company service providers is available on the website of the CR's Trust and Company Service Providers Licensing Regime at www.tcsp.cr.gov.hk.

For enquiries relating to the licensing of trust or company service providers, you may contact us via the following means:

By phone	<ul style="list-style-type: none">• (852) 3142 2822
By email	<ul style="list-style-type: none">• enq@tcsp.cr.gov.hk
By fax	<ul style="list-style-type: none">• (852) 3586 9987
By post / in person	<ul style="list-style-type: none">• Unit 1208, 12th Floor, One Kowloon, 1 Wang Yuen Street, Kowloon Bay, Kowloon, Hong Kong

Annex**List of Forms Specified for the
Trust or Company Service Providers Licensing Regime**

	Form No.	Title	Remarks
1	Form TCSP1	Application for a Trust or Company Service Provider Licence	
2	Form TCSP2	Application for Renewal of a Trust or Company Service Provider Licence	
3	Form TCSP3	Application for Approval to Become an Ultimate Owner / a Partner / a Director of a Trust or Company Service Provider Licensee	
4	Form TCSP4	Statement as regards Fit and Proper Criteria (For applicant / ultimate owner / partner / director – individual)	To be submitted with Form TCSP1, TCSP2 or TCSP3
5	Form TCSP5	Statement as regards Fit and Proper Criteria (For partner / director – corporation)	To be submitted with Form TCSP1, TCSP2 or TCSP3
6	Form TCSP6	Notification of Changes in Particulars	
7	Form TCSP7	Notification of Cessation of Trust or Company Service Business	

The above forms can be downloaded at the website of the CR's Trust and Company Service Providers Licensing Regime at www.tcsp.cr.gov.hk.