

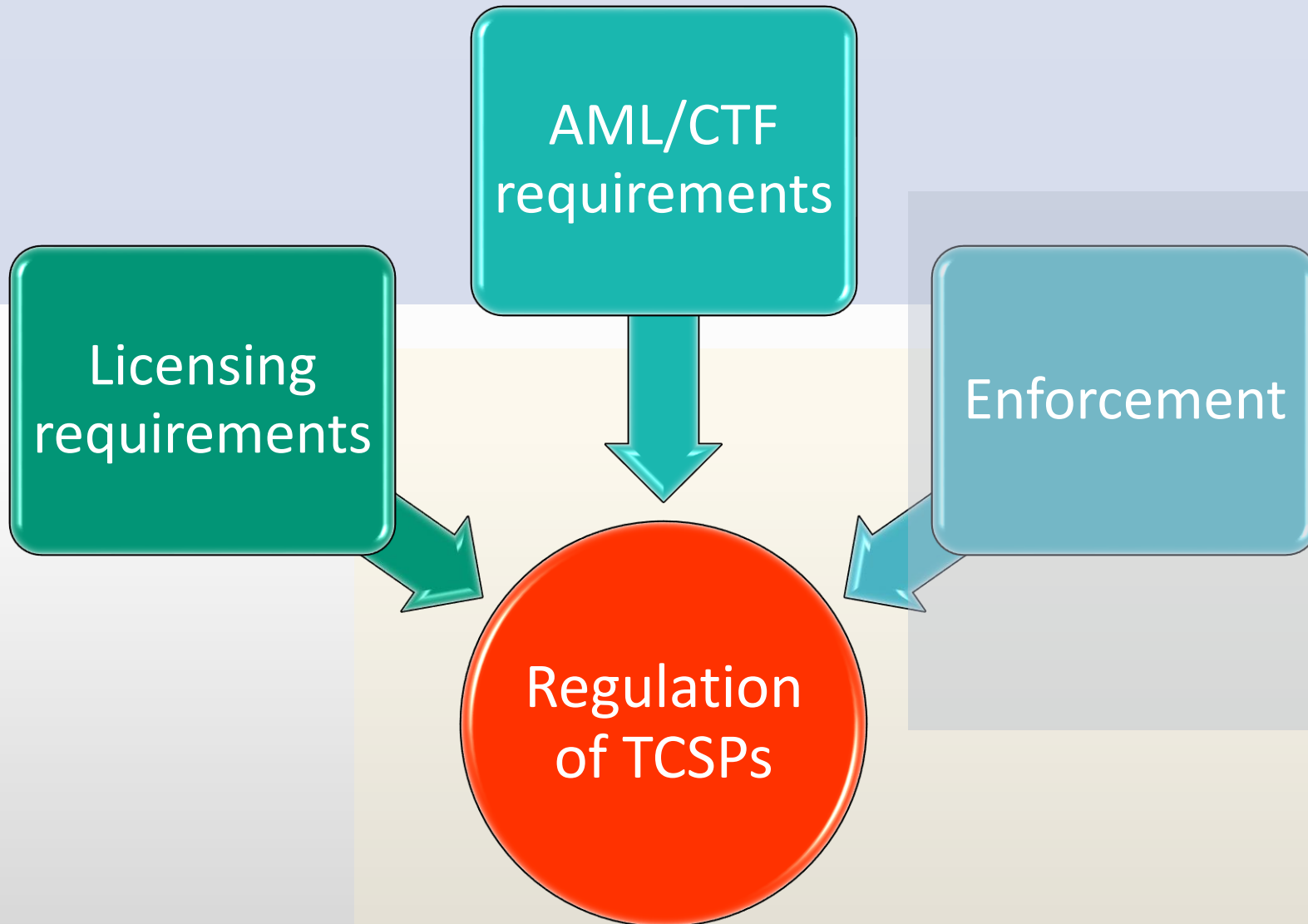
Licensing Regime for Trust or Company Service Providers (TCSPs)



Mr Roger Wong
Deputy Registry Manager

18 December 2020

Regulatory Framework for TCSPs



Requirements for TCSPs (I)

Licensing Requirements

- Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Cap. 615 (“AMLO”), Part 5A
- Conditions of TCSP licence

AML/CTF Requirements

- AMLO, section 5A & Schedule 2
- Guideline on Compliance of AML/CTF Requirements for TCSPs (“AML/CTF Guideline”)
- Conditions of TCSP licence
- Other legislation – requirements relating financial sanctions, terrorist financing, proliferation of weapons of mass destruction and reporting of suspicious transactions

Requirements for TCSPs (II)

Licensing Requirements

AML/CTF Requirements

AML/CTF Guideline

AMLO (Cap. 615)

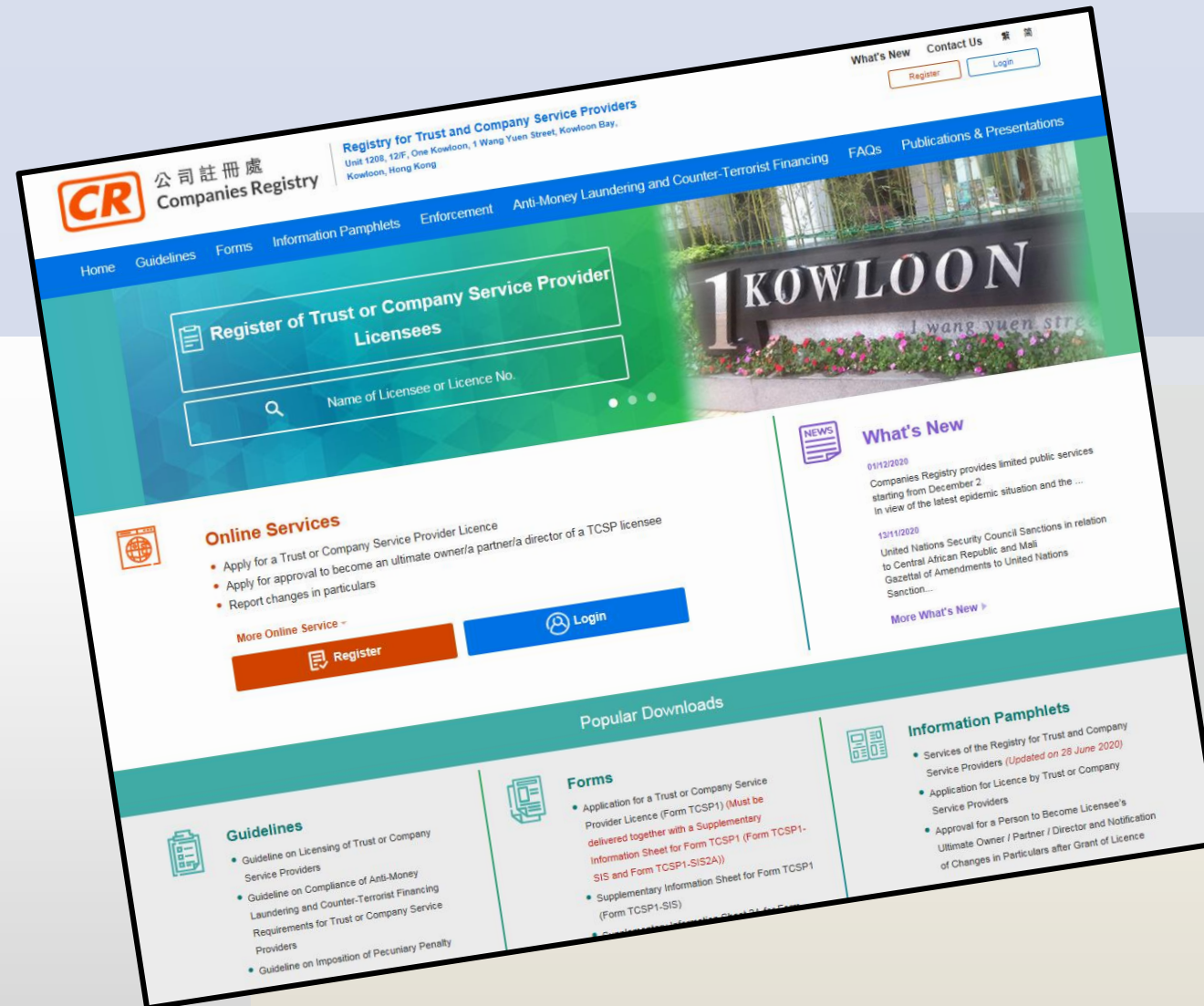
Part 5A

S.5A &
Schedule 2

Conditions of Licence

AML/CTF
Requirements
under other
legislation

Requirements for TCSPs (III)



Licensing Requirements (I)

*Apply for a TCSP licence **BEFORE** carrying on trust or company service business in Hong Kong*

Carry on business **WITHOUT** a licence



Fine up to
HK\$100,000



Imprisonment up to
6 months

i

It is an offence under s.53F of the AMLO to carry on a trust or company service business without a licence

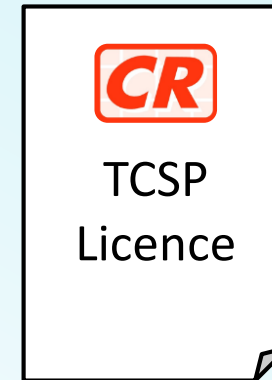
Licensing Requirements (II)

*I have just applied for a TCSP licence.
Can I carry on trust or company service now?*



NO.

You can only
carry on trust or
company service
AFTER you are
granted a
TCSP licence.



Licensing Requirements (III)

Some examples on who needs to apply for a licence

Providing Address

Our company provides registered office, business address and correspondence address for my clients

Required

I am a landlord and carry on a business of leasing office or business premises to my tenants

Not Required



These examples are not exhaustive and are for general information only. Please seek independent legal or professional advice as you see fit.

Acting as Company Secretary

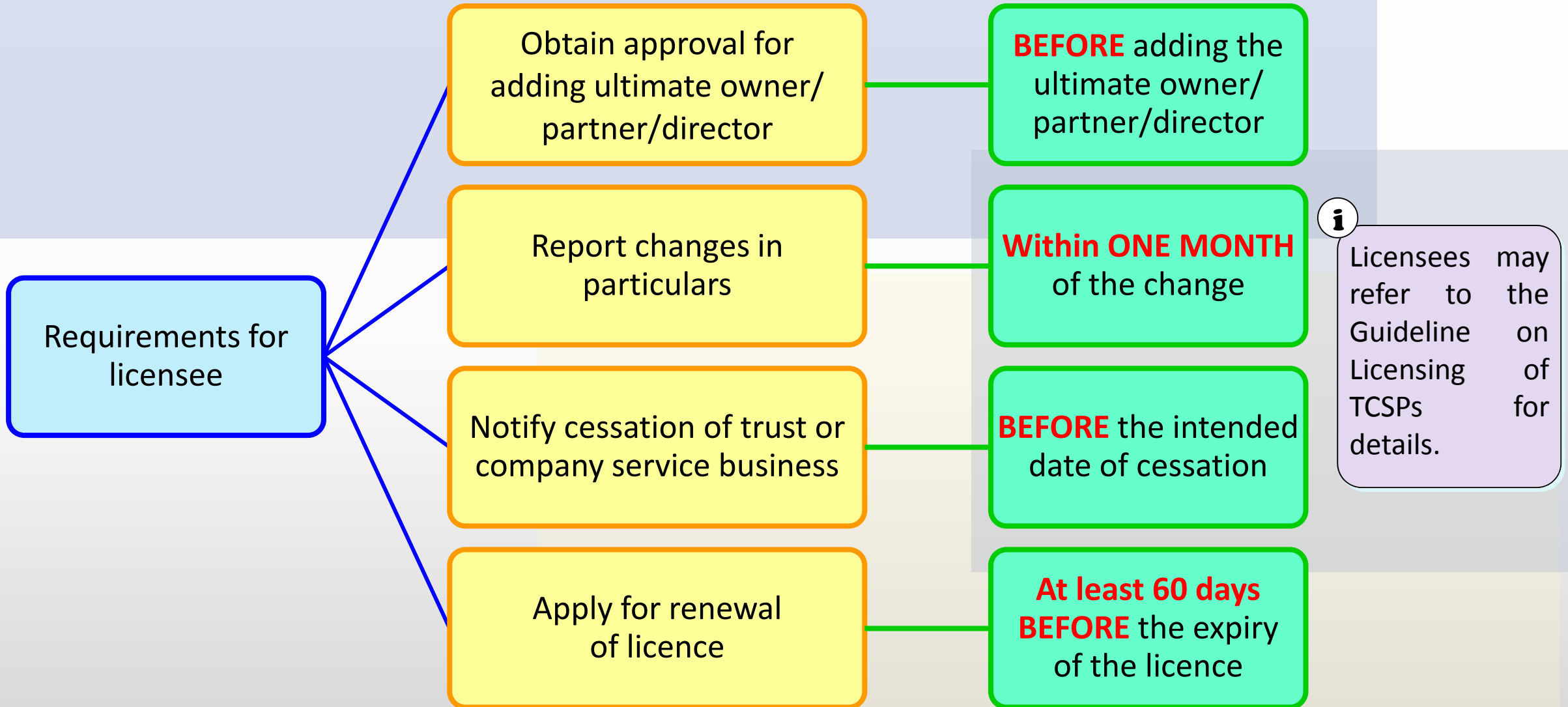
I am employed by a company and is appointed as the company secretary of the company

Not Required

I provide service to companies by acting as their company secretary

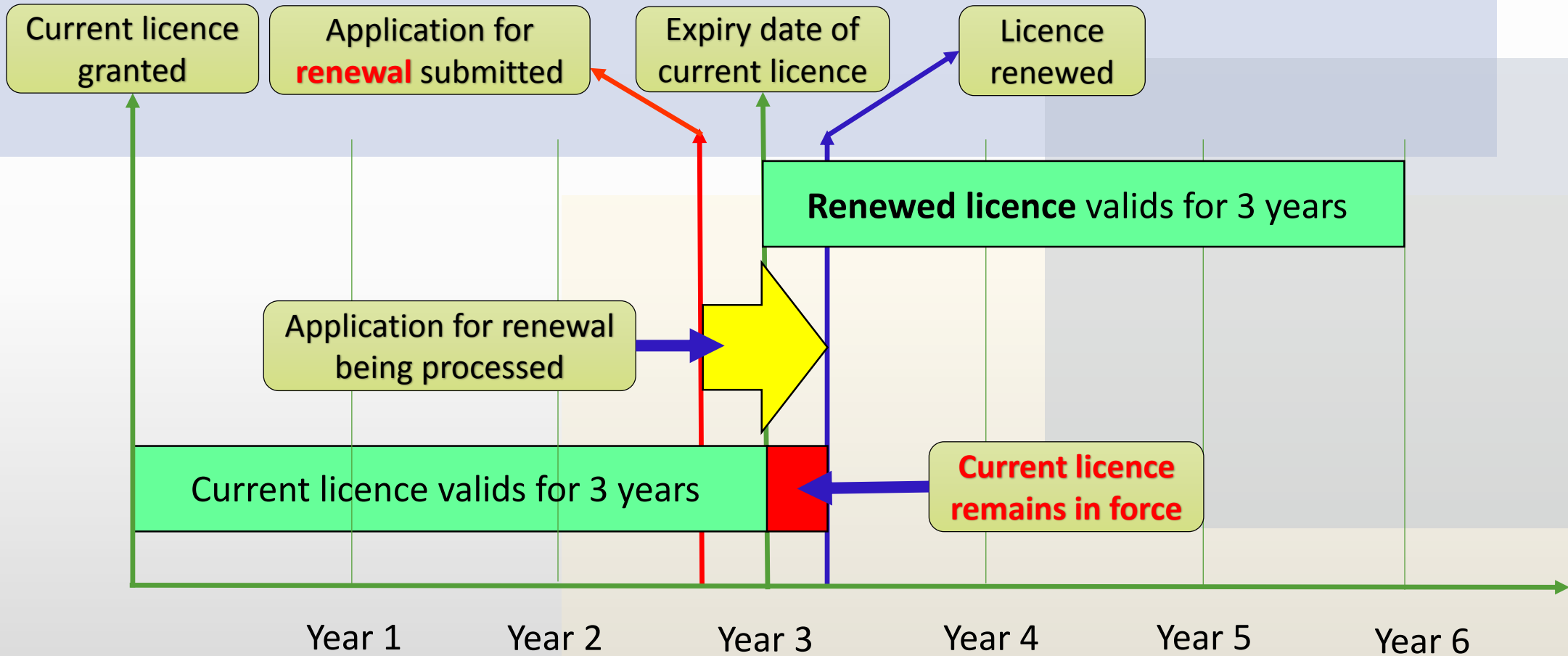
Required

Licensing Requirements (IV)



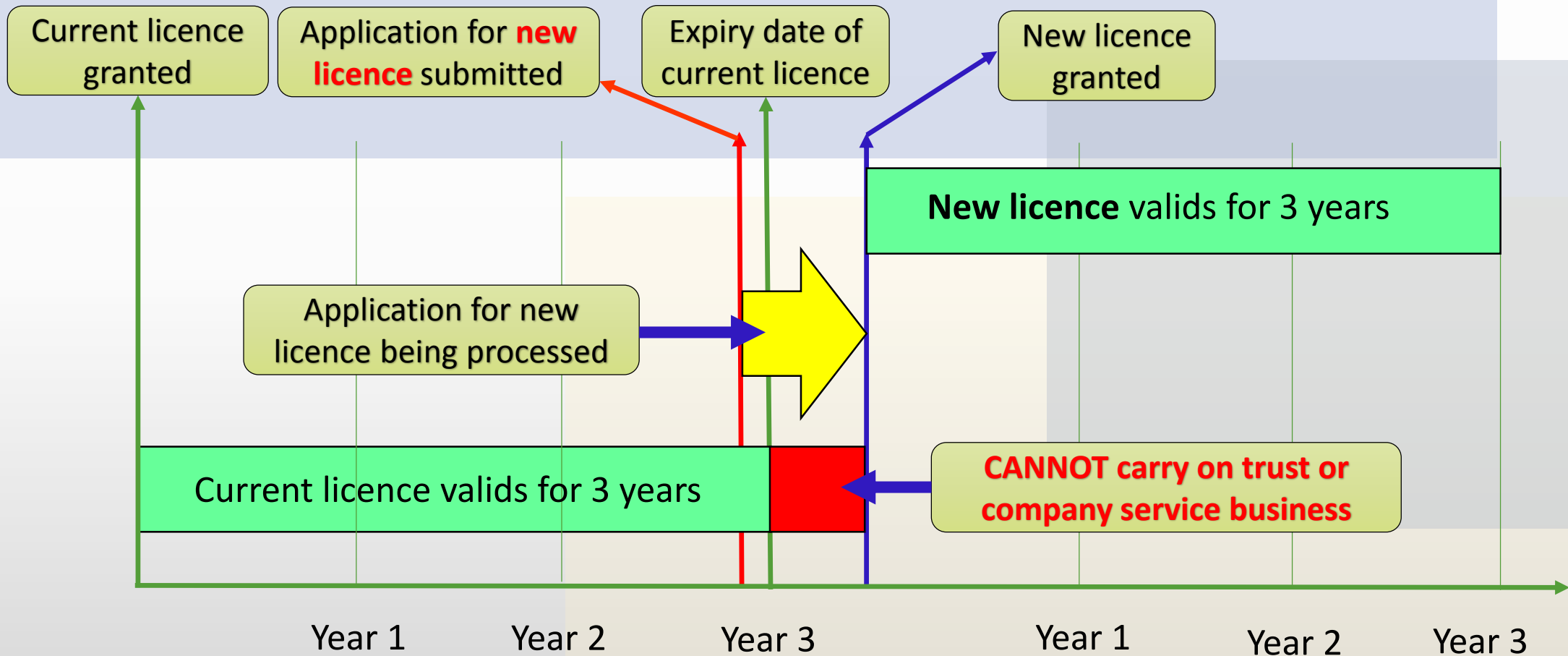
Renewal of TCSP Licence – Timeline (I)

Application must be submitted at least 60 days before the licence expires



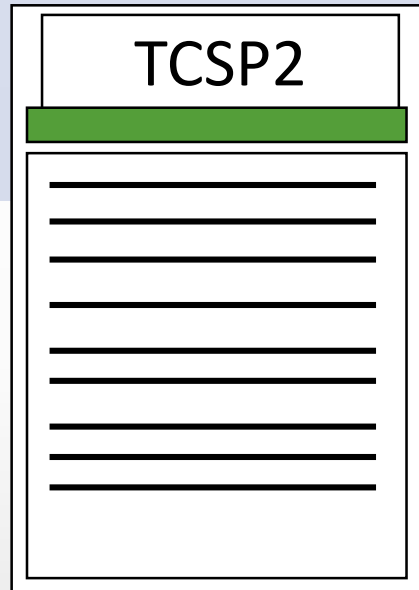
Renewal of TCSP Licence – Timeline (II)

Licensee fails to submit application at least 60 days before the licence expires



Renewal of TCSP Licence - Application

Application



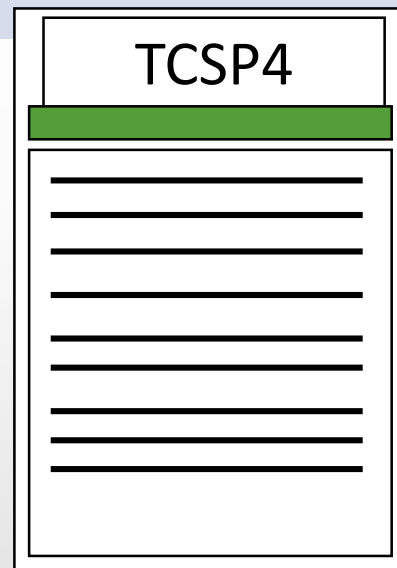
TCSP2

i Application fee:
HK\$2,910

Form TCSP4 or Form TCSP5 for **EACH**
person subject to the fit and proper test

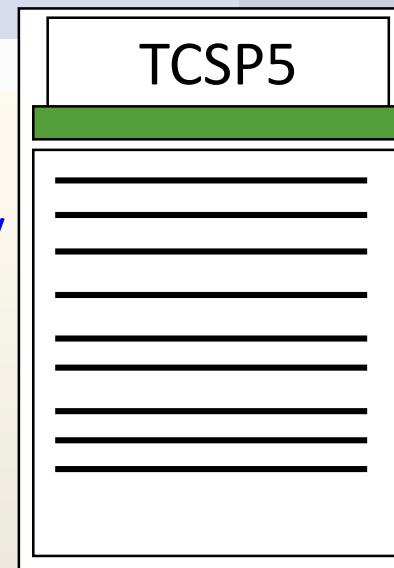
Individual

Corporation



TCSP4

And/
or

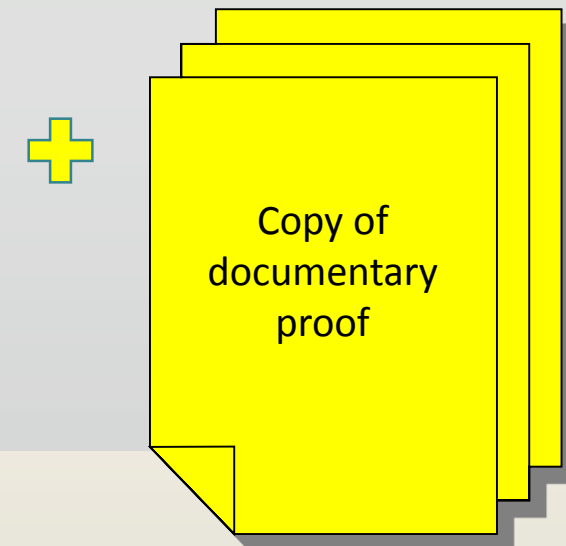


TCSP5

i Additional fee for **EACH** person: **HK\$975**

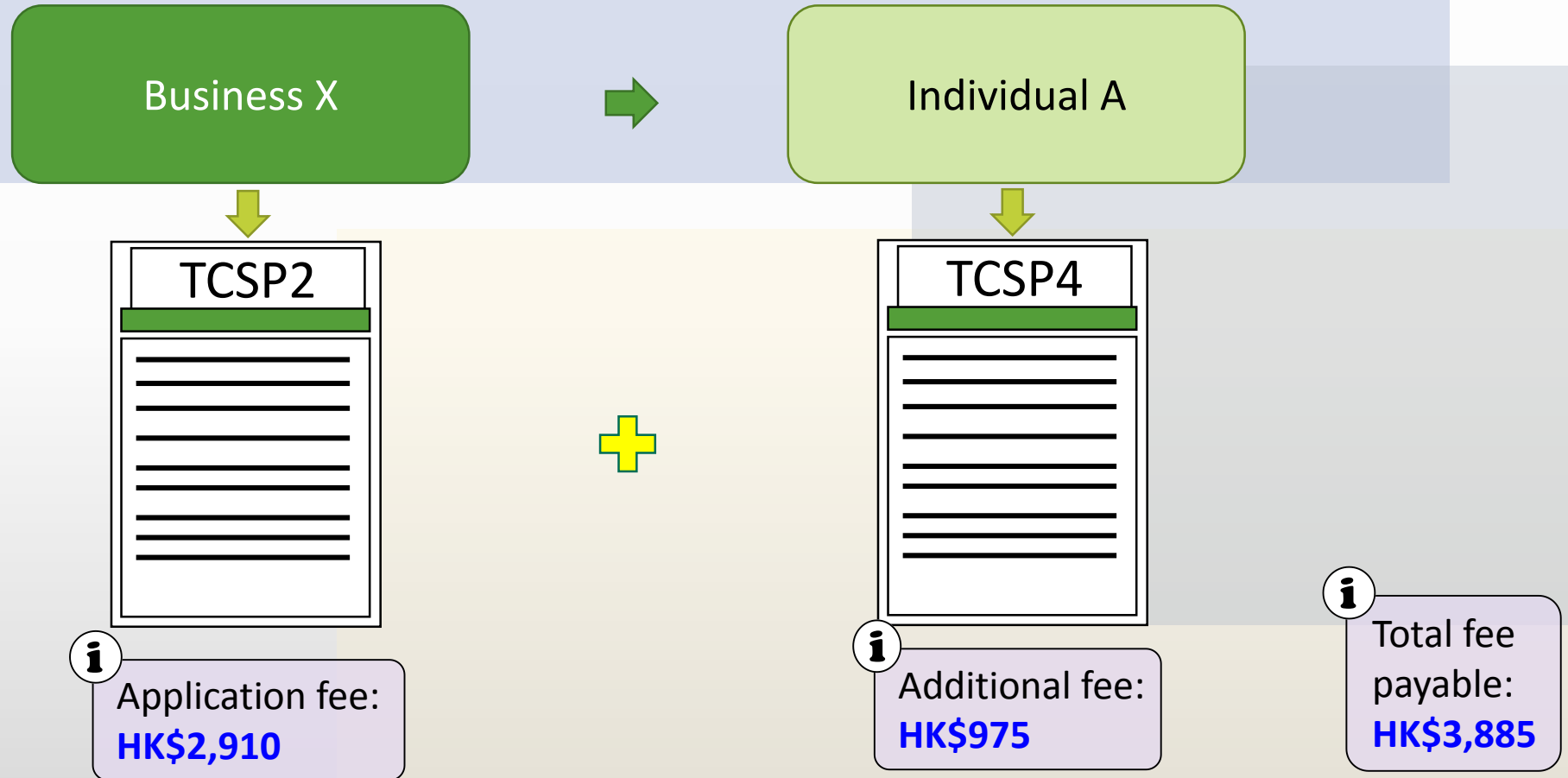


Exempted persons



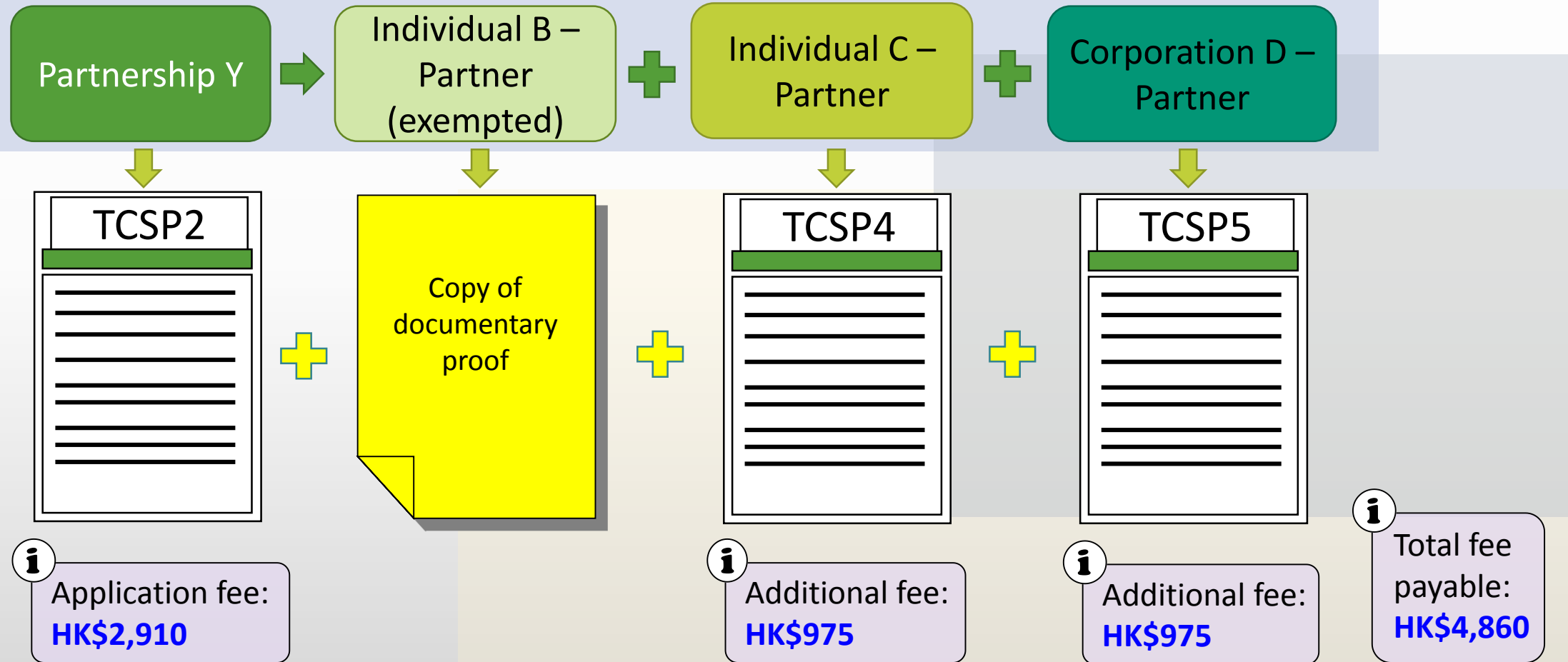
Renewal of TCSP Licence – Example 1

Applicant – sole proprietorship Business X operated by Individual A



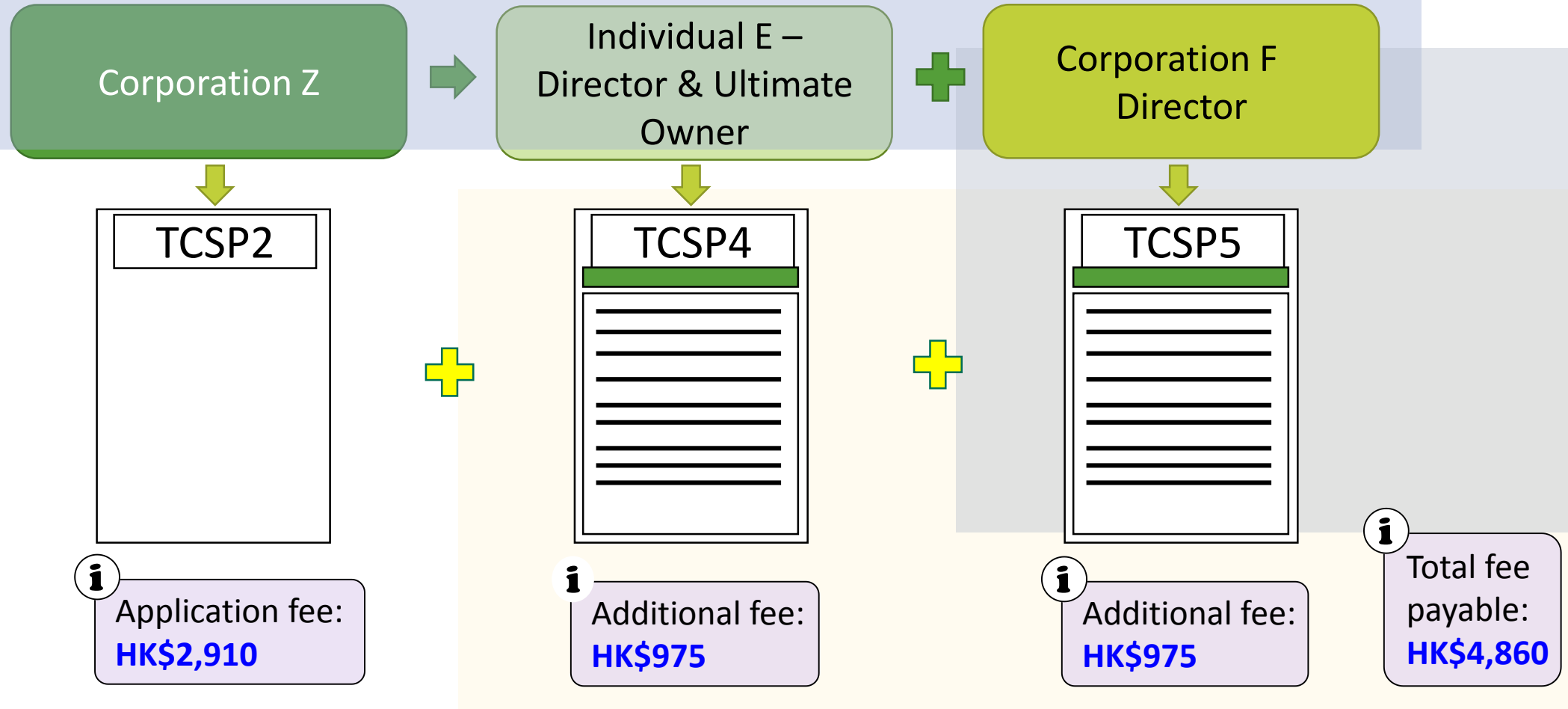
Renewal of TCSP Licence – Example 2

Applicant – Partnership Y



Renewal of TCSP Licence – Example 3

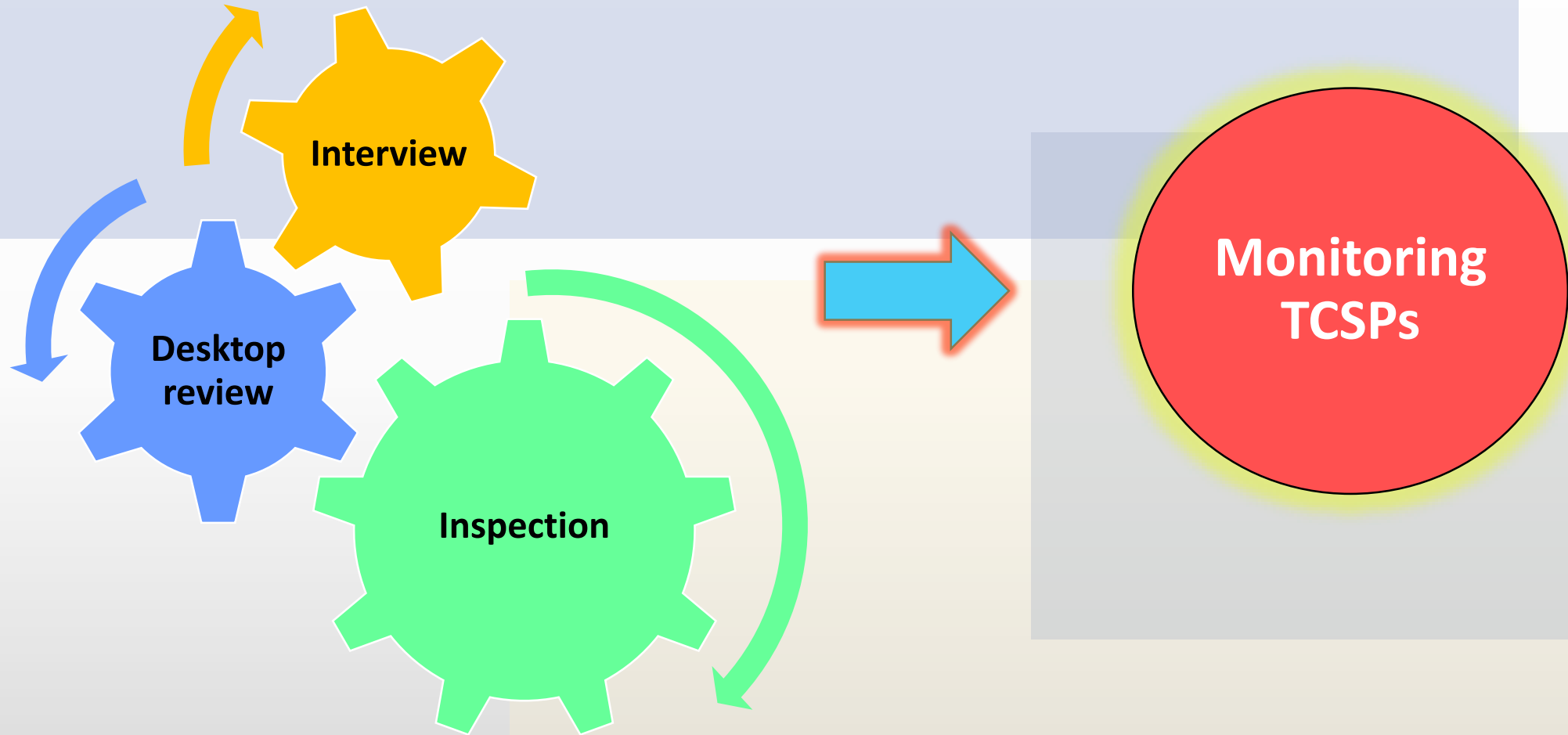
Applicant – Corporation Z



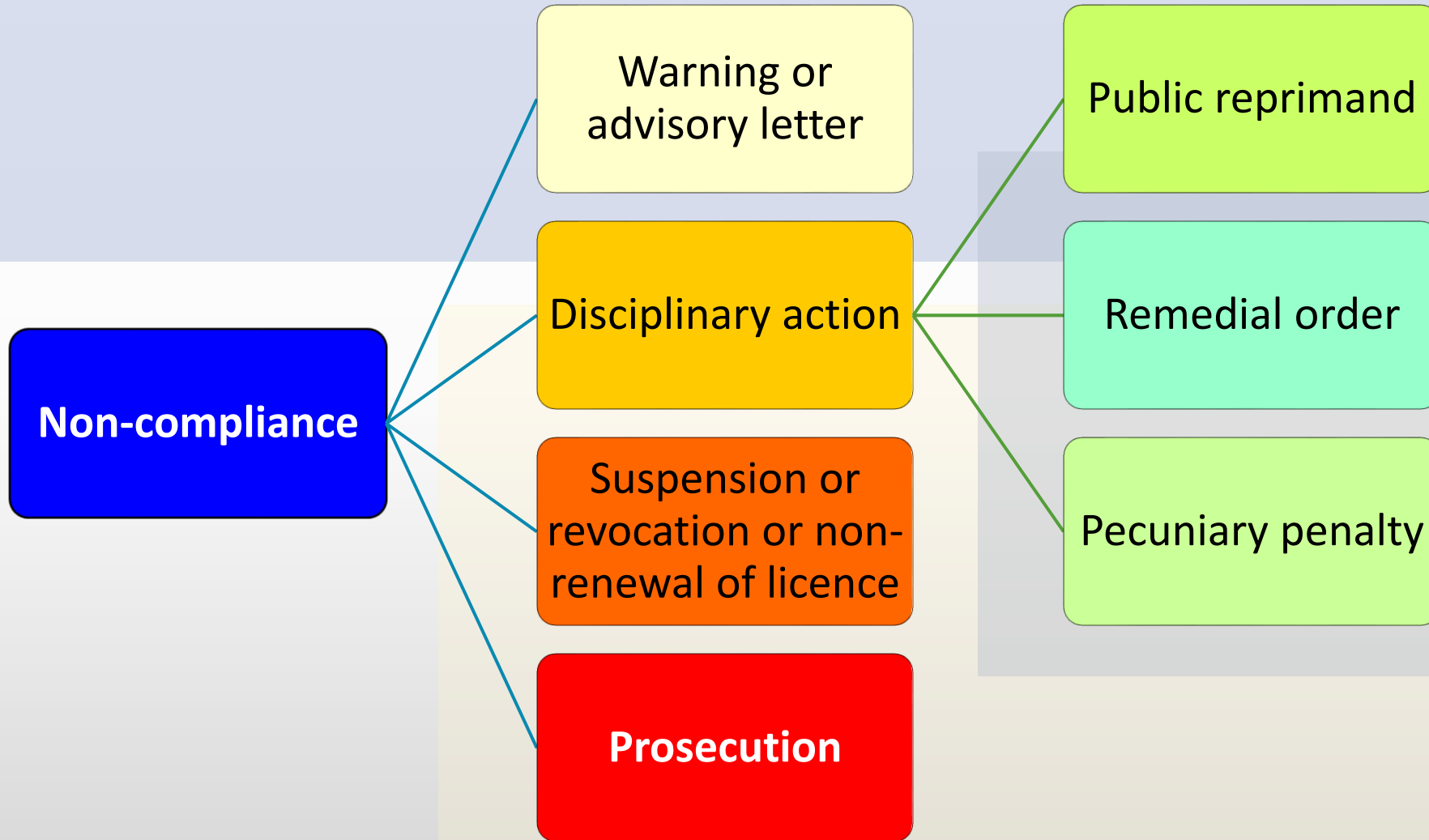
AML/CTF Requirements for TCSPs

Under other legislation	Under the AMLO and the AML/CTF Guideline
<ul style="list-style-type: none">• Complying with the statutory requirements relating to:<ul style="list-style-type: none">• financial sanctions• terrorist financing• proliferation of weapons of mass destruction• Reporting suspicious transactions to the Joint Financial Intelligence Unit	<ul style="list-style-type: none">• Carrying out customer due diligence measures• Keeping records of customers and transactions

Enforcement of the Licensing Regime (I)



Enforcement of the Licensing Regime (II)



Enforcement of the Licensing Regime (III)

The image displays two overlapping screenshots of the Companies Registry website, specifically the 'Highlights of Prosecution Cases' and 'Highlights of Disciplinary Cases' sections.

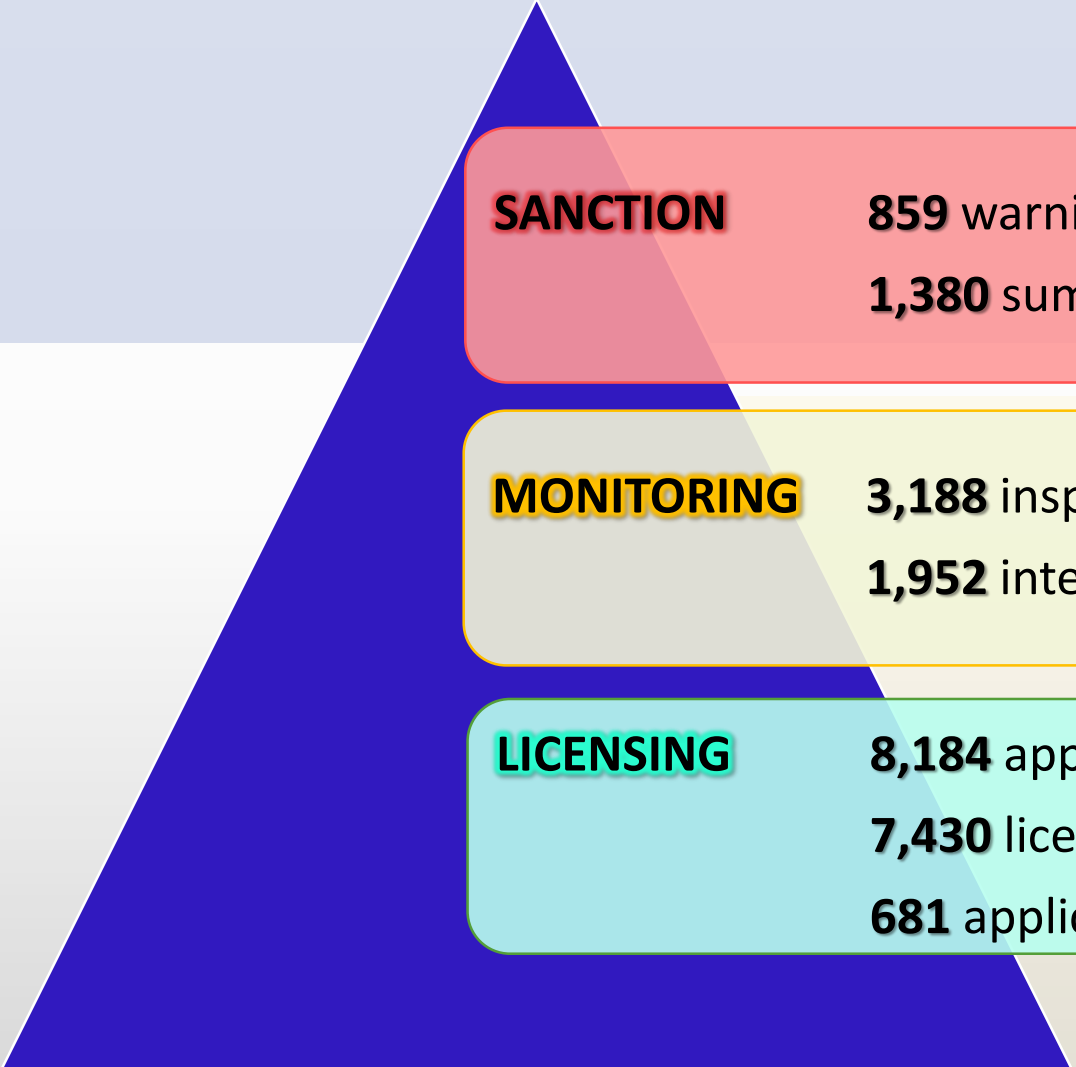
Left Screenshot: Highlights of Prosecution Cases

Defendant(s)	Nature of Offence	Judgment
[Redacted] (as a director of [Redacted] Limited)	Carrying on a trust or company service business without a licence, contrary to section 53F(1) of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Cap. 615 and section 101E of the Criminal Procedure Ordinance, Cap. 221.	The defendant was convicted on 1 August 2019. The defendant from his provider licence to
[Redacted] Limited	Carrying on a trust or company service business without a licence, contrary to section 53F(1) of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Cap. 615.	The defendant on 25 July 2019. The defendant provided
[Redacted] (as a director of [Redacted] Limited)	Carrying on a trust or company service business without a licence, contrary to section 53F(1) of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Cap. 615 and section 101E of the Criminal Procedure Ordinance, Cap. 221.	
[Redacted] Limited	Carrying on a trust or company service business without a licence, contrary to section 53F(1) of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Cap. 615.	
[Redacted] (as a director of [Redacted] Limited)	Carrying on a trust or company service business without a licence, contrary to section 53F(1) of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Cap. 615.	

Right Screenshot: Highlights of Disciplinary Cases

Name of Licensee and Licence No.	Contravention	Disciplinary Action Taken
[Redacted] Limited (TC00-...)	The Licensee has contravened: 1. Condition 2 of the licence imposed by the Registrar of Companies pursuant to section 53U of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Cap. 615 ("the AMLO"), namely, the Licensee has failed to put in place adequate and proper anti-money laundering and counter-terrorist financing policies, procedures and controls, as evidenced by policy statement(s) or other written documents. 2. section 19(3) of Schedule 2 to the AMLO, namely, the Licensee has failed to establish and maintain effective procedures not inconsistent with the AMLO for the purpose of carrying out the duties under sections 3, 4, 5, 9, 10 and 15 of Schedule 2. 3. section 23 of Schedule 2 to the AMLO, namely, the Licensee has failed to take all reasonable measures to ensure that proper safeguards exist to prevent a contravention of any requirement under Part 2 or 3 of Schedule 2; and to mitigate money laundering and terrorist financing risks.	Imposition of a pecuniary penalty of HK\$10,000 (Decision date: 19 October 2020) Statement of Disciplinary Action
[Redacted] Company Limited (TC00-...)	The Licensee has contravened: 1. section 53U(1) of Part 5A of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Cap. 615 ("the AMLO"), namely, a person has become a director of the Licensee without prior written approval of the Registrar of Companies.	Imposition of a pecuniary penalty of HK\$20,000 (Decision date: 21 September 2020) Statement of Disciplinary Action

Statistics as at 30 November 2020



SANCTION 859 warning / advisory letters issued
1,380 summonses issued

MONITORING 3,188 inspections conducted
1,952 interviews conducted

LICENSING 8,184 applications received
7,430 licences granted
681 applications rejected or withdrawn

The End

