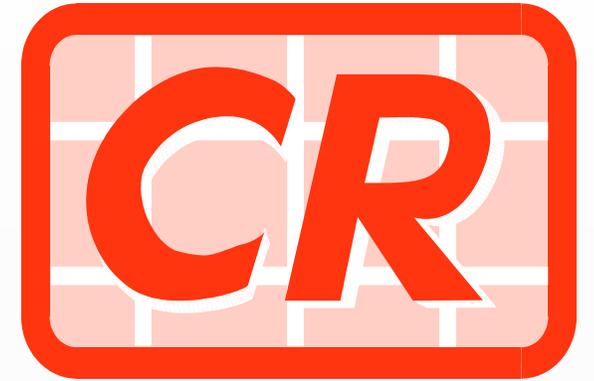


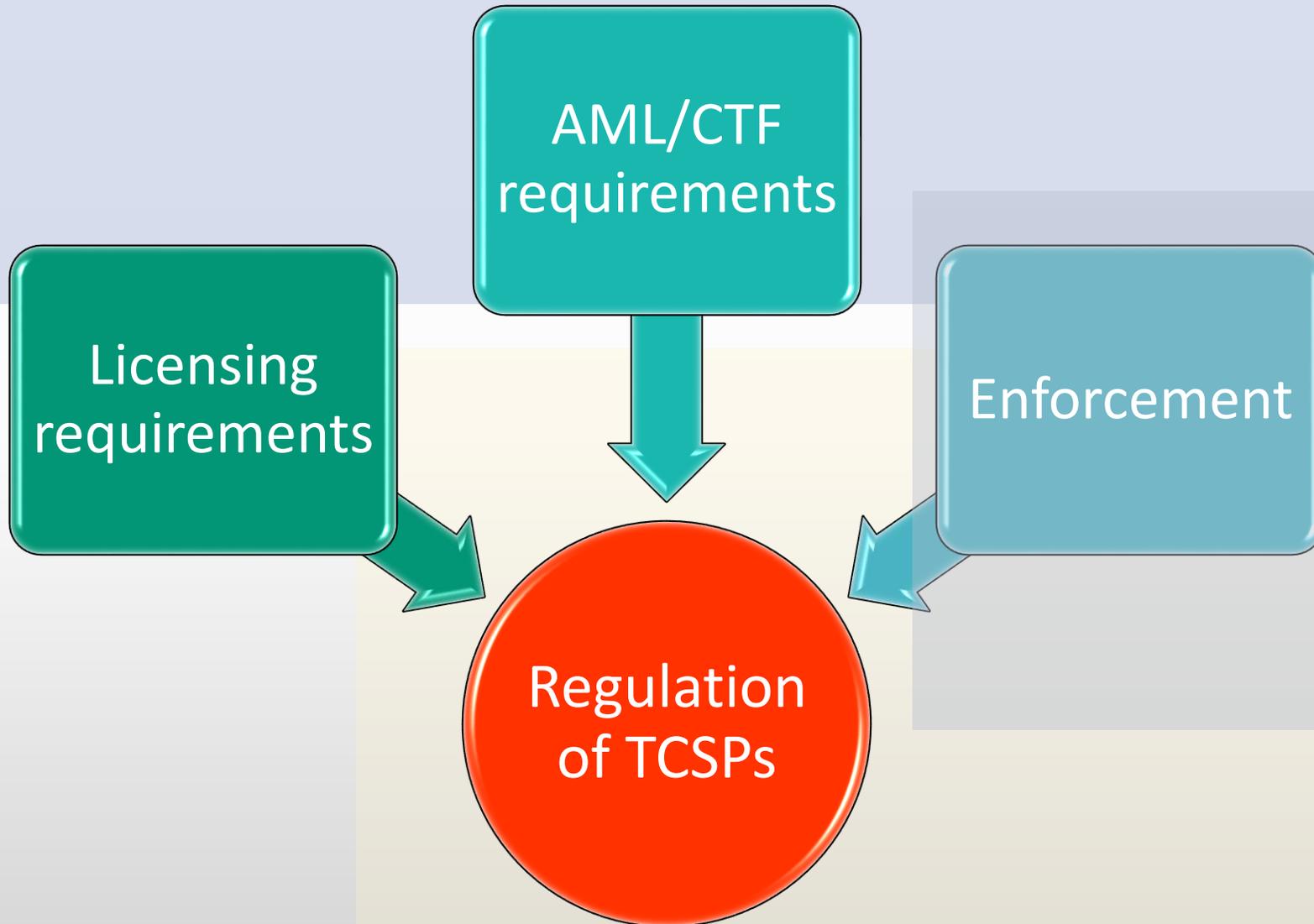
Licensing Regime for Trust or Company Service Providers (TCSPs)



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)

The screenshot shows the website for the Registry for Trust and Company Service Providers. The header includes the logo and name in Chinese and English, along with the address: Unit 1208, 12/F, One Kowloon, 1 Wang Yuen Street, Kowloon Bay, Kowloon, Hong Kong. Navigation links include Home, Guidelines, Forms, Information Pamphlets, Enforcement, Anti-Money Laundering and Counter-Terrorist Financing, FAQs, and Publications & Presentations. A search bar is prominently displayed with the text "Register of Trust or Company Service Provider Licensees" and a placeholder "Name of Licensee or Licence No.". Below this, there are sections for "Online Services" (Apply for a Trust or Company Service Provider Licence, Apply for approval to become an ultimate owner/a partner/a director of a TCSP licensee, Report changes in particulars), "What's New" (01/12/2020: Companies Registry provides limited public services starting from December 2; 13/11/2020: United Nations Security Council Sanctions in relation to Central African Republic and Mali), "Popular Downloads" (Guidelines, Forms, Information Pamphlets), and "Information Pamphlets" (Services of the Registry for Trust and Company Service Providers, Application for Licence by Trust or Company Service Providers, Approval for a Person to Become Licensee's Ultimate Owner / Partner / Director and Notification of Changes in Particulars after Grant of Licence). Buttons for "Register" and "Login" are visible.



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

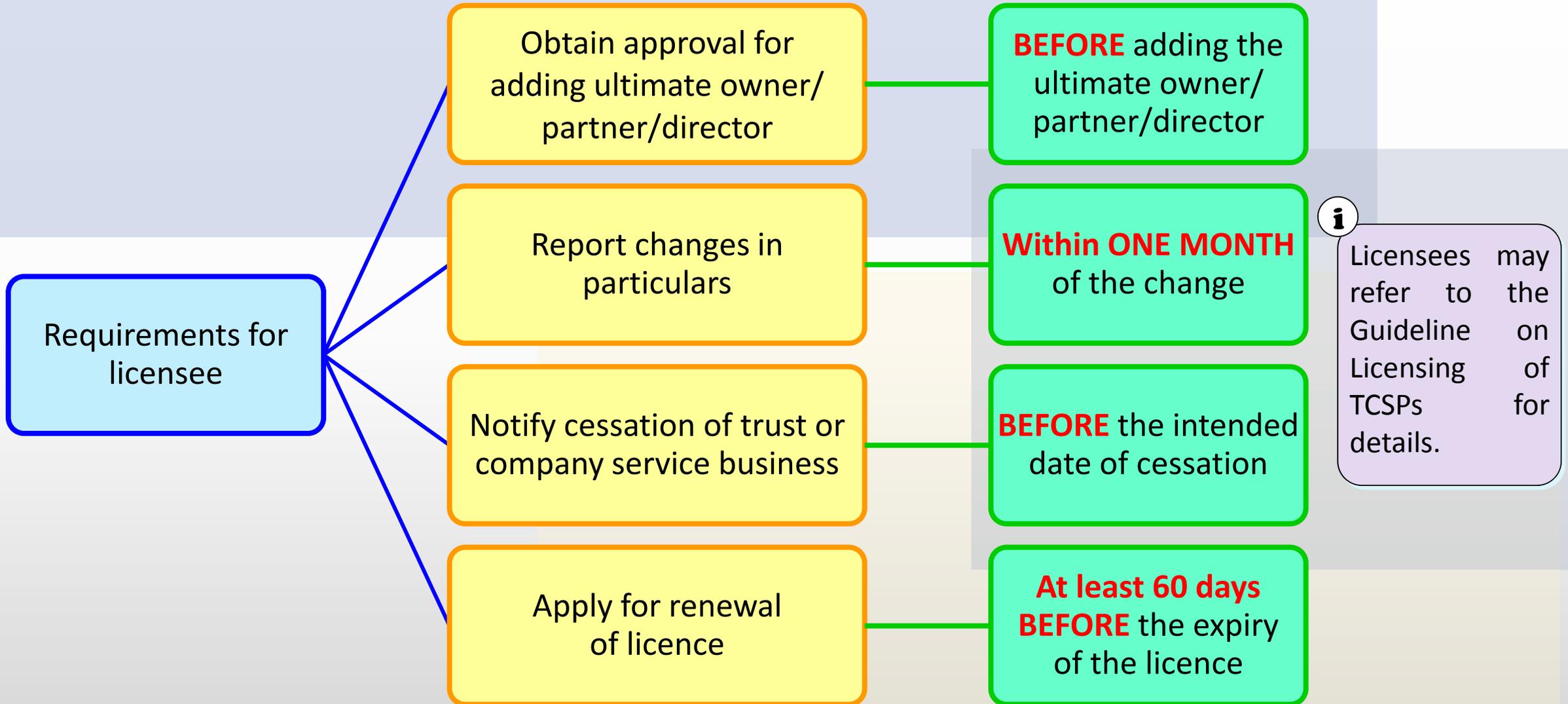
I am employed by a company and is appointed as the company secretary of the company

Not Required

I provide service to companies by acting as their company secretary

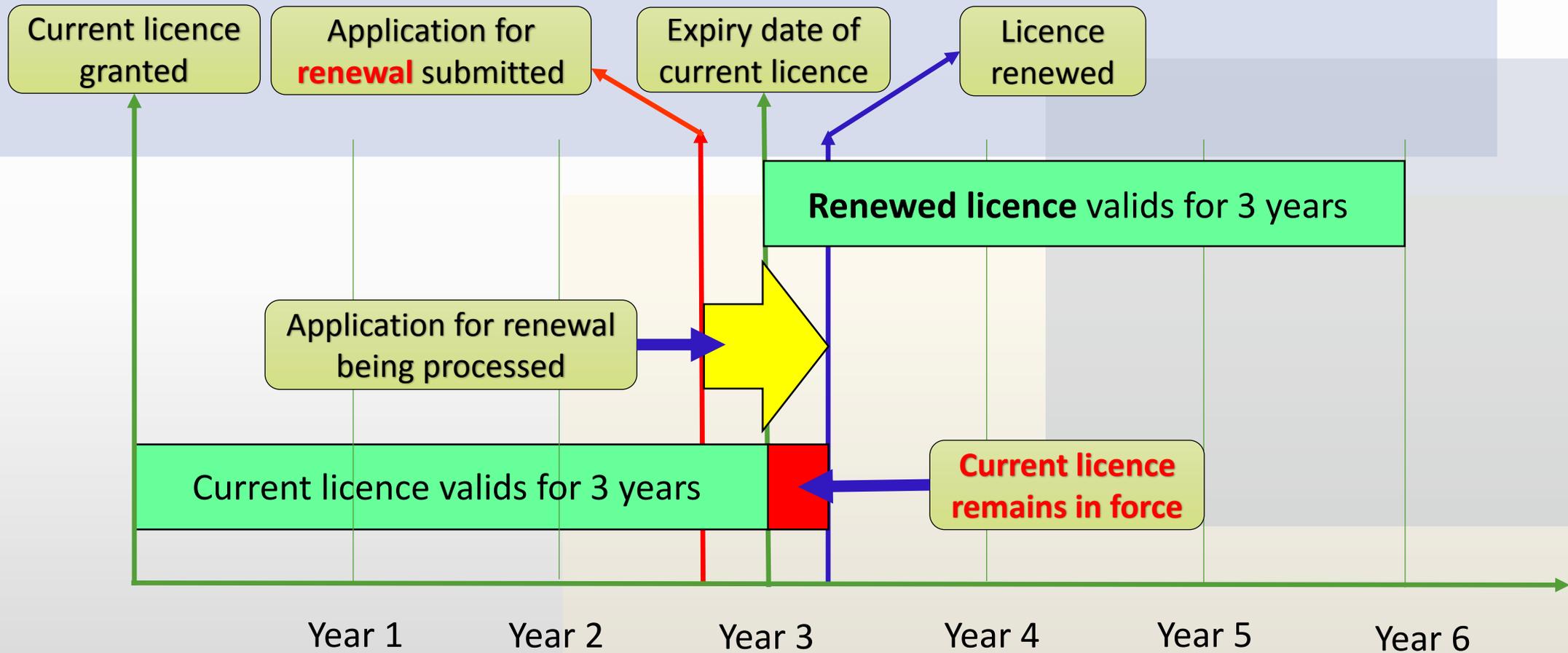
Required

Licensing Requirements (IV)



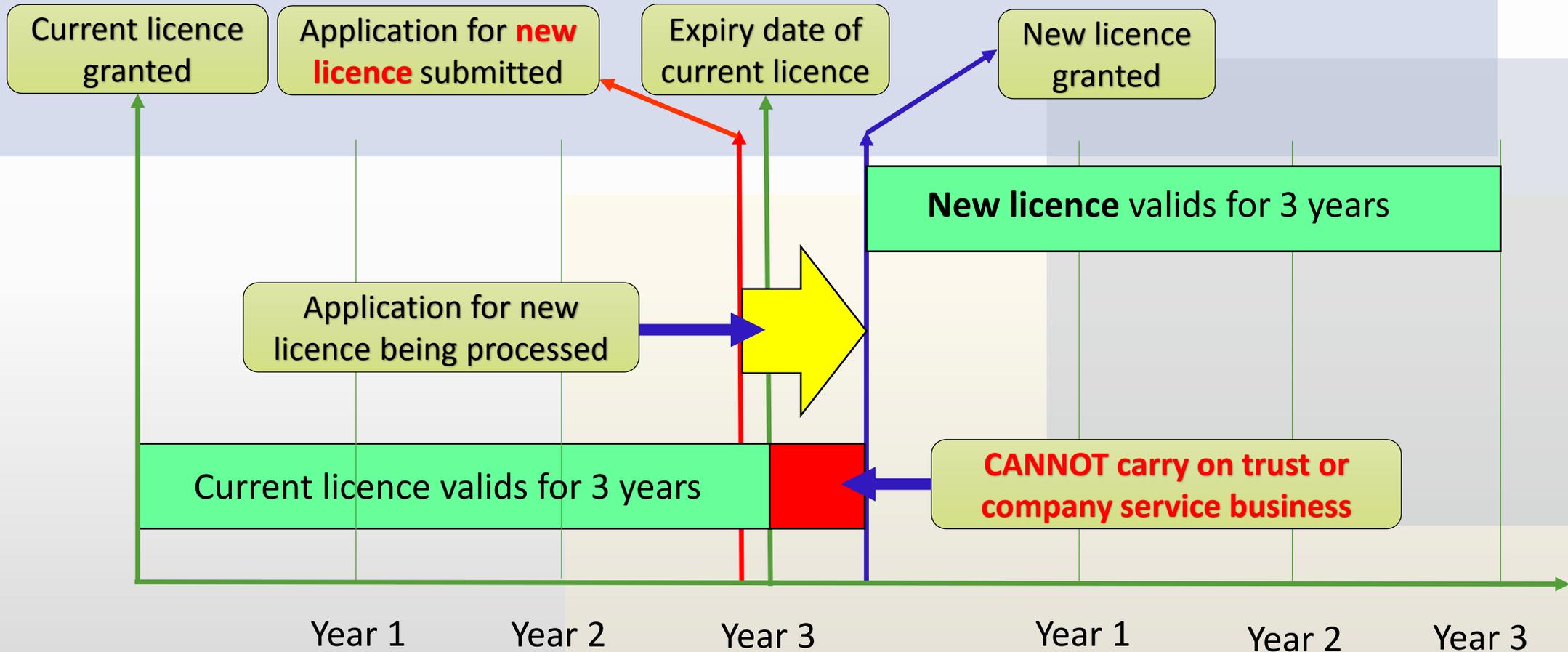
Renewal of TCSP Licence – Timeline (I)

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



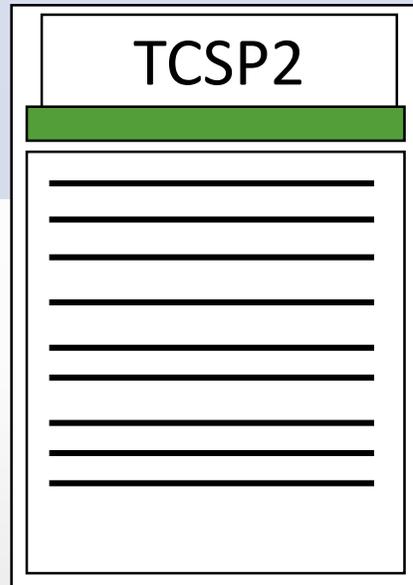
Renewal of TCSP Licence – Timeline (II)

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



Renewal of TCSP Licence - Application

Application



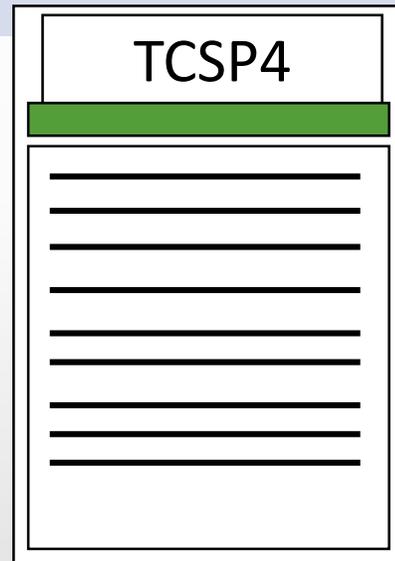
TCSP2

i Application fee:
HK\$2,910

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

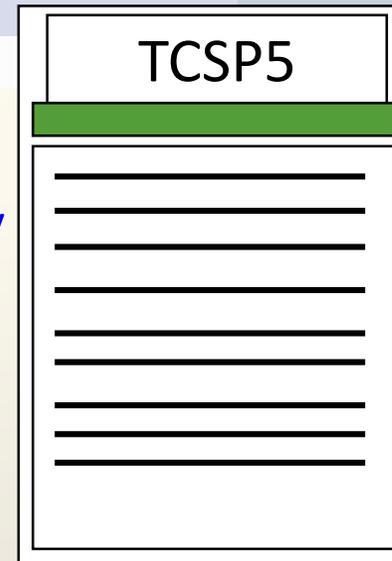
Individual

Corporation



TCSP4

And/
or

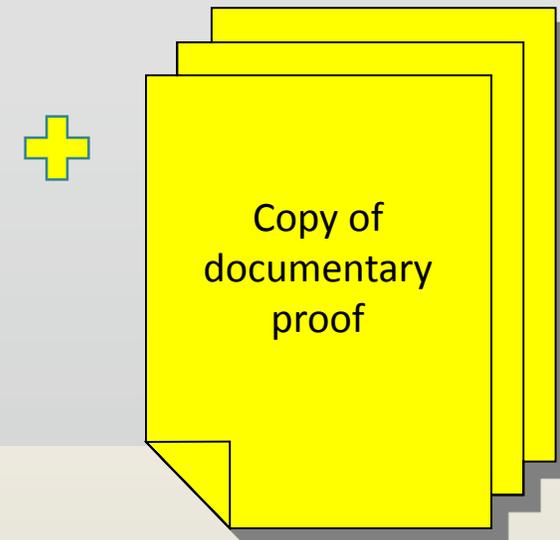


TCSP5

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

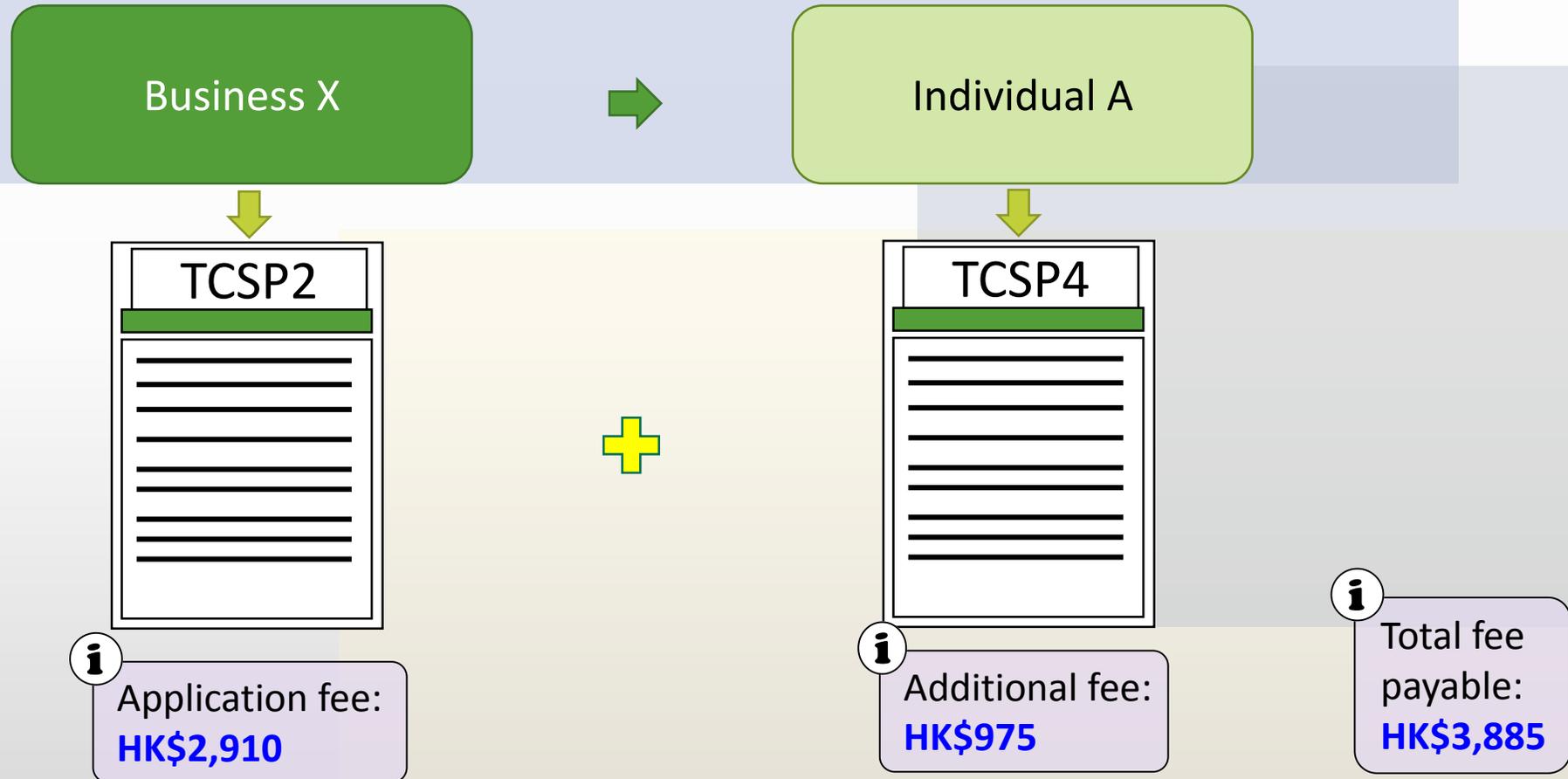


Exempted persons



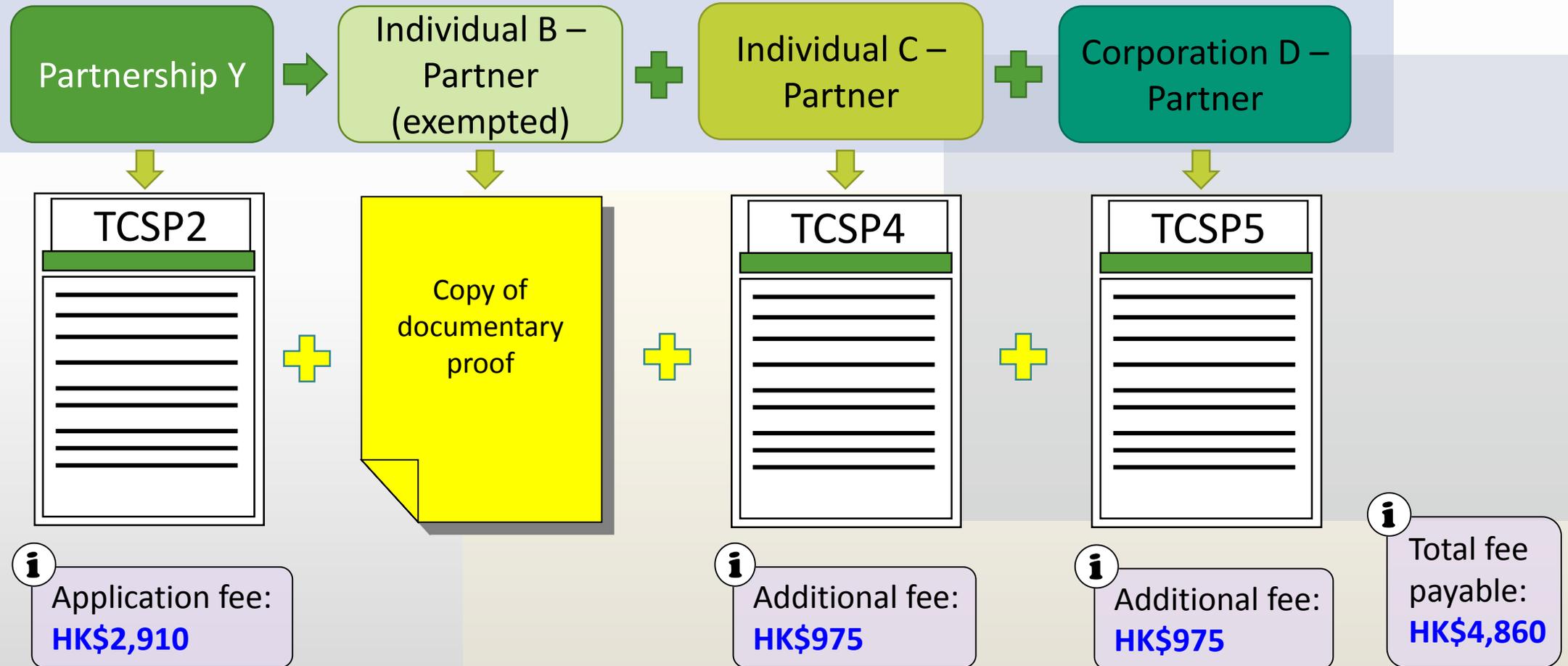
Renewal of TCSP Licence – Example 1

Applicant – sole proprietorship Business X operated by Individual A

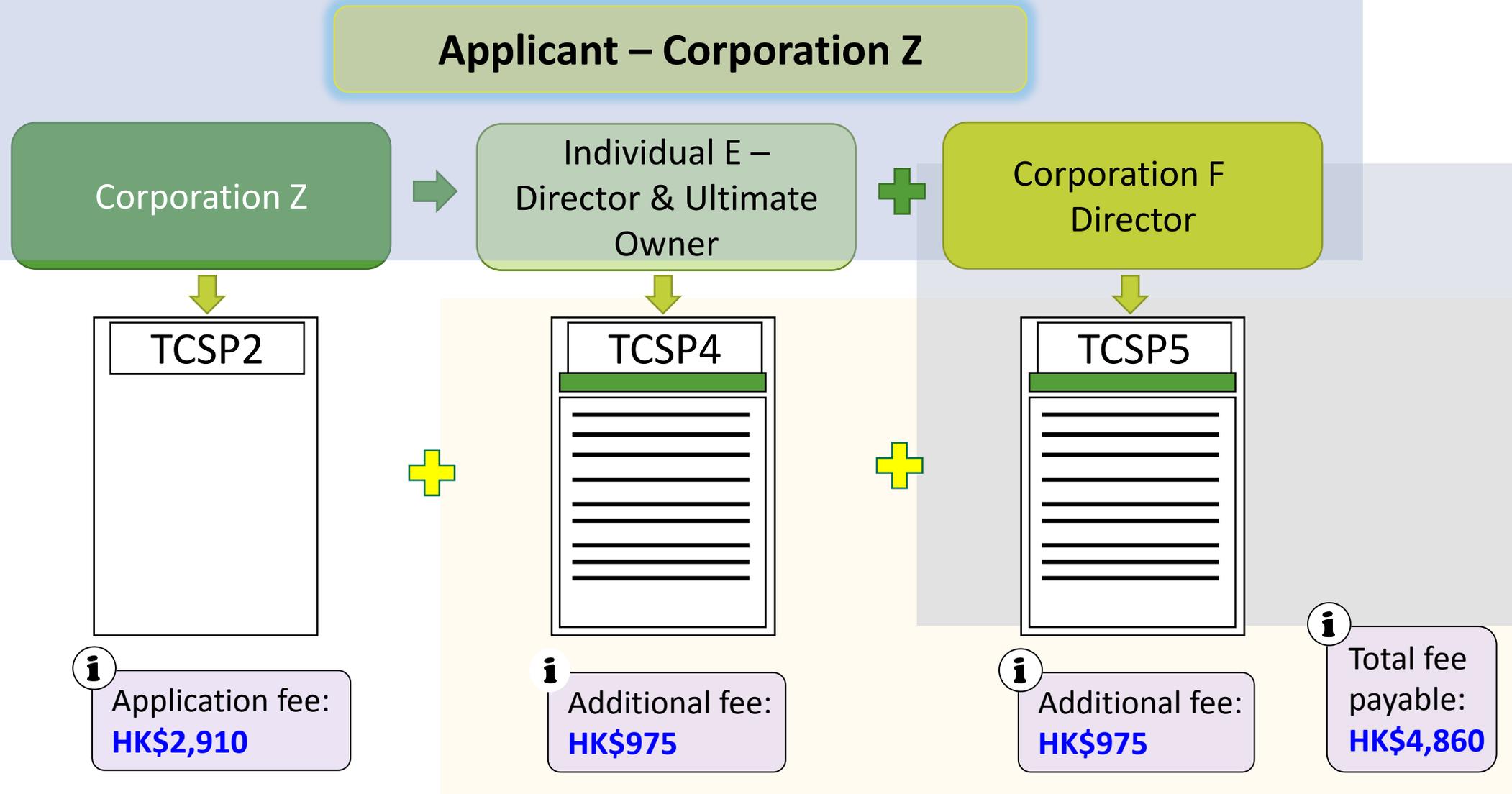


Renewal of TCSP Licence – Example 2

Applicant – Partnership Y



Renewal of TCSP Licence – Example 3



AML/CTF Requirements for TCSPs

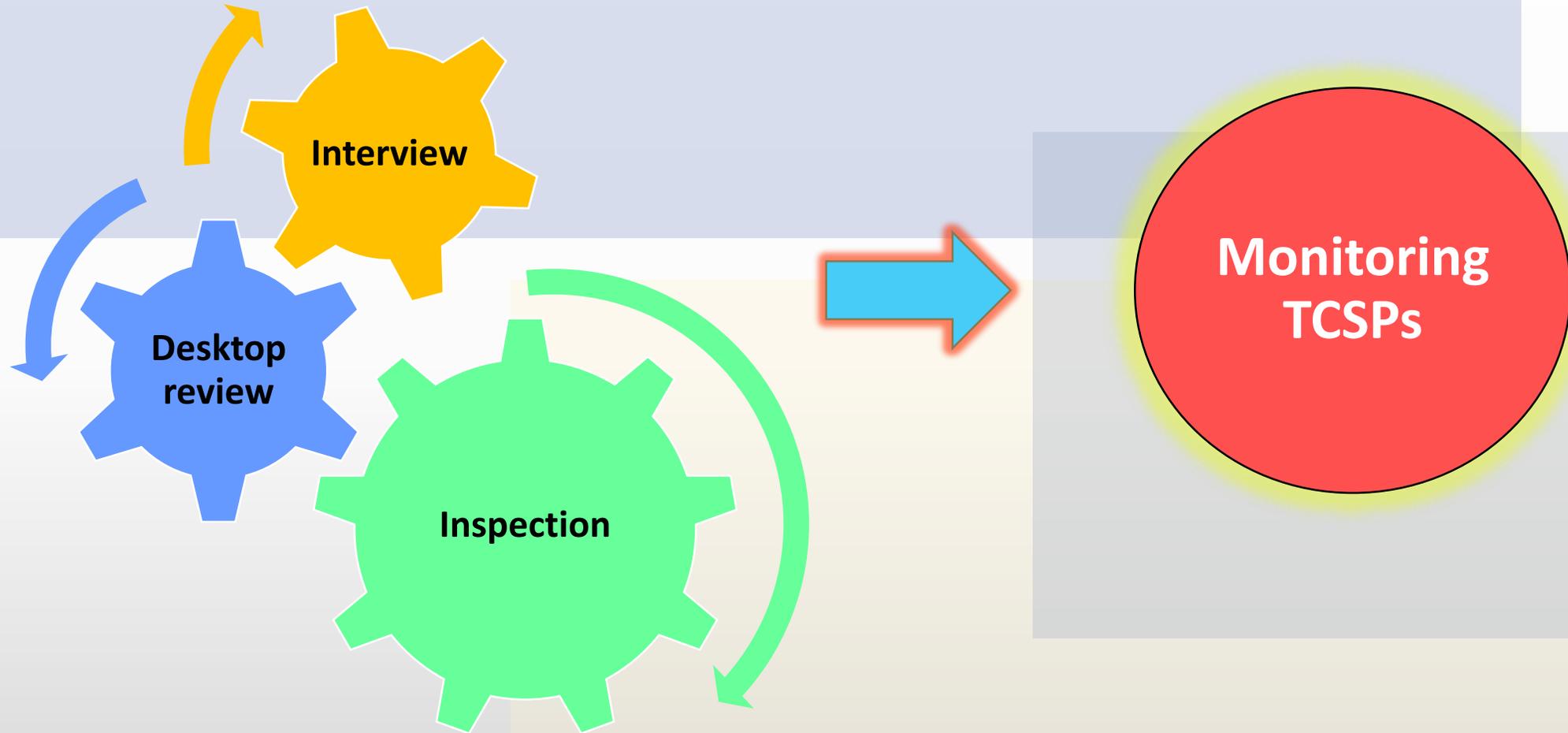
Under other legislation

- Complying with the statutory requirements relating to:
 - financial sanctions
 - terrorist financing
 - proliferation of weapons of mass destruction
- Reporting suspicious transactions to the **Joint Financial Intelligence Unit**

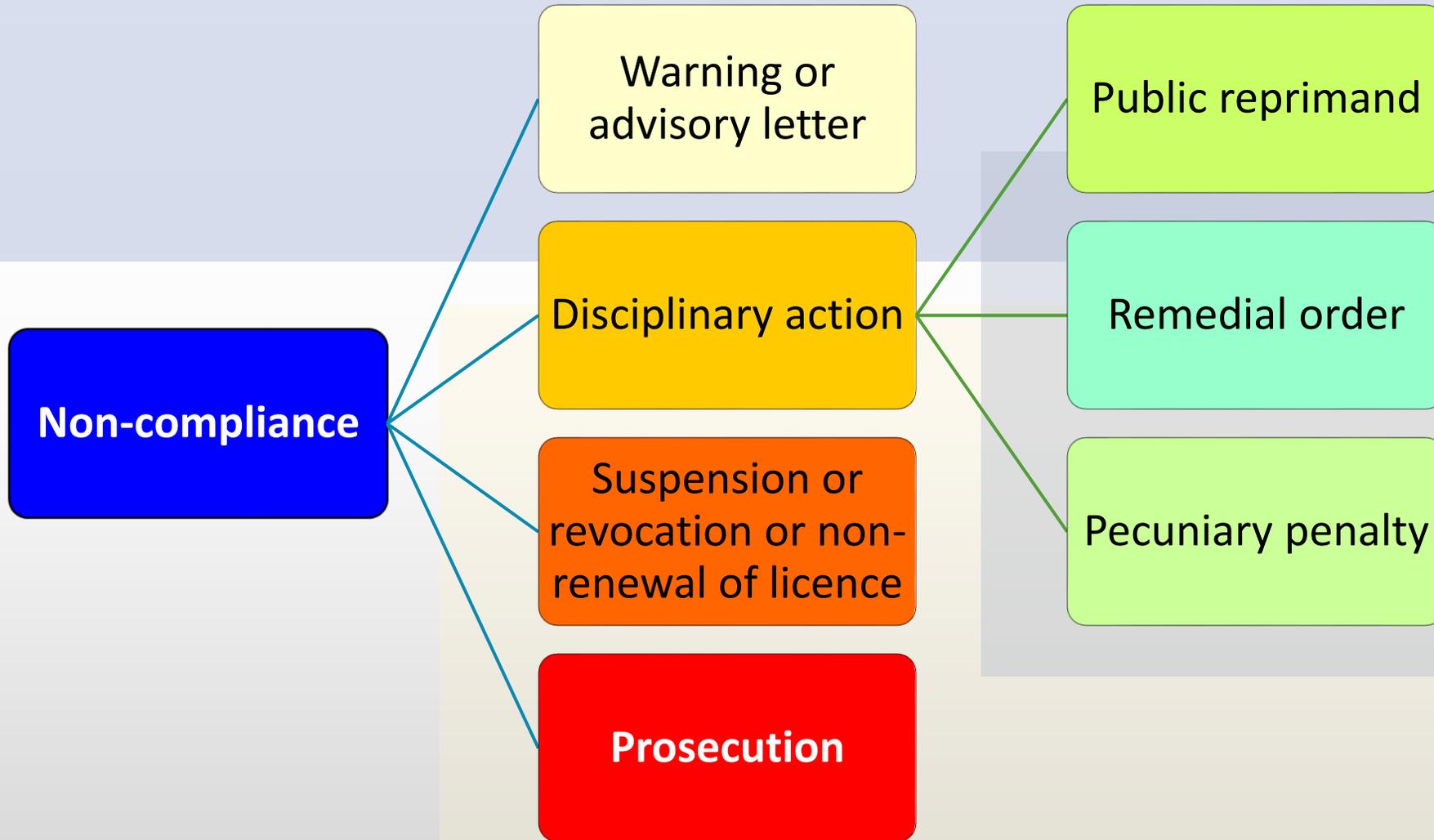
Under the AMLO and the AML/CTF Guideline

- 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)

Highlights of Prosecution Cases

Defendant(s)	Nature of Offence	Judgment
[Company Name] (as a director of [Company Name] 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
[Company Name] 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
[Company Name] (as a director of [Company Name] 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
[Company Name] 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

Highlights of Disciplinary Cases

Name of Licensee and Licence No.	Contravention	Disciplinary Action Taken
[Company Name] 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
[Company Name] 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

