



# Regulation of Trust or Company Service Providers

**Ms Margaret Chan  
Senior Solicitor**

**30.11.2018**



公 司 註 冊 處  
COMPANIES REGISTRY

# Money Laundering and Terrorist Financing (1)

## What are Money Laundering and Terrorist Financing

- “money laundering” and “terrorist financing” are defined in section 1 of Part 1 of Schedule 1 to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Cap.615 (“AMLO”)

## Combating Money Laundering and Terrorist Financing

- AMLO
- Drug Trafficking (Recovery of Proceeds) Ordinance, Cap.405
- Organized and Serious Crime Ordinance, Cap.455
- United Nations (Anti-Terrorism Measures) Ordinance, Cap. 575
- United Nations Sanctions Ordinance, Cap. 537
- Terrorist Financing related Suspicious Transaction Reports are filed to the JFIU as a mandatory requirement



# Money Laundering and Terrorist Financing (2)

## Enhancing the AML/CFT legal framework

- To extend the CDD and record-keeping requirements to Designated Non-Financial Businesses and Professions (“DNFBPs”)
- To introduce a licensing regime for TCSPs;
- Keeping of beneficial ownership information by companies incorporated in Hong Kong;
- To introduce the R32 Ordinance to implement a declaration/disclosure system for crossboundary movement of currency and bearer negotiable instruments;
- To amend the UNATMO to enhance the freezing mechanism of terrorist property and to prohibit the financing of travel of foreign terrorist fighters; and
- To implement the UNSC sanctions.



# 《 Anti-Money Laundering and Counter-Terrorist Financing Ordinance 》 (1)

- The licensing regime for TCSPs came into operation on 1 March 2018.
- To prescribe statutory CDD and record-keeping requirements to DNFBPs when these professionals engage in specified transactions.

## Legal Professionals



The Law Society  
of Hong Kong



《 Legal Practitioners  
Ordinance 》 (Chapter 159)

## Accounting Professionals



Hong Kong Institute  
of Certified Public  
Accountants



《 Professional Accountants  
Ordinance 》 (Chapter 50)

## Estate Agents



Estate Agents  
Authority



《 Estate Agents Ordinance 》  
(Chapter 511)

## Trust or Company Service Providers



Companies Registry



《 Anti-Money  
Laundering and Counter-  
Terrorist Financing  
Ordinance 》 (Chapter 615)



# AML/CTF requirements that apply to Accounting Professionals

**When Accounting Professionals prepare for or carry out the following transactions by way of business**

- (a) the buying or selling of real estate;
- (b) the managing of client money, securities or other assets;
- (c) the management of bank, savings or securities accounts;
- (d) the organization of contributions for the creation, operation or management of corporations;
- (e) the creation, operation or management of— (i) legal persons; or (ii) legal arrangements;
- (f) the buying or selling of business entities;
- (g) Trust or Company Service (section 1 of Part 1 of Schedule 1)
  - forming corporations or other legal persons;
  - 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
    - (ii) in a similar position in relation to other legal persons;
  - providing a registered office, business address, correspondence or administrative address for a corporation, a partnership or any other legal person or legal arrangement;
  - acting, or arranging for another person to act—
    - (i) as a trustee of an express trust 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.

# 《 Anti-Money Laundering and Counter-Terrorist Financing Ordinance 》 (2)

## Applicants



Corporation



Partnership



Sole Proprietor

## Who are subject to the “fit-and-proper” test



- Sole Proprietor
  - Partner
  - Director
  - Ultimate Owner
  - Corporation
- (AMLO sections 53F, 53G and 53H)

## Register of TCSP Licensees

Register of Trust or Company Service Provider Licensees

Search by Name of Licensee or Licence No.

CR 公司註冊處 Companies Registry

Register of Trust or Company Service Provider Licensees

Register of Trust or Company Service Provider Licensees

List of Trust or Company Service Provider Licensees

Search by Name of Licensee or Licence No.

License No.	Name of Licensee or Licensee's Name	Business Address	Business Description	Remarks	Status
1	10000001	10000001	10000001	10000001	10000001
2	10000002	10000002	10000002	10000002	10000002
3	10000003	10000003	10000003	10000003	10000003
4	10000004	10000004	10000004	10000004	10000004
5	10000005	10000005	10000005	10000005	10000005
6	10000006	10000006	10000006	10000006	10000006
7	10000007	10000007	10000007	10000007	10000007
8	10000008	10000008	10000008	10000008	10000008
9	10000009	10000009	10000009	10000009	10000009
10	10000010	10000010	10000010	10000010	10000010
11	10000011	10000011	10000011	10000011	10000011
12	10000012	10000012	10000012	10000012	10000012
13	10000013	10000013	10000013	10000013	10000013
14	10000014	10000014	10000014	10000014	10000014
15	10000015	10000015	10000015	10000015	10000015
16	10000016	10000016	10000016	10000016	10000016
17	10000017	10000017	10000017	10000017	10000017
18	10000018	10000018	10000018	10000018	10000018
19	10000019	10000019	10000019	10000019	10000019
20	10000020	10000020	10000020	10000020	10000020

(AMLO section 53D)

# “Fit and Proper” Test

- In determining whether a person is fit and proper to carry on, or be associated with, a TCSP business, the Registrar will have regard to any matter that the Registrar considers relevant.







- whether the person has any criminal conviction in particular, those relating to money laundering or terrorist financing or involving fraud or dishonesty

- whether the person is an undischarged bankrupt / in liquidation or receivership (AMLO sections 53H and 53I)



# Licensing Regime for TCSPs

The TCSP licensing requirement (including the fit and proper test) does **not** apply to:

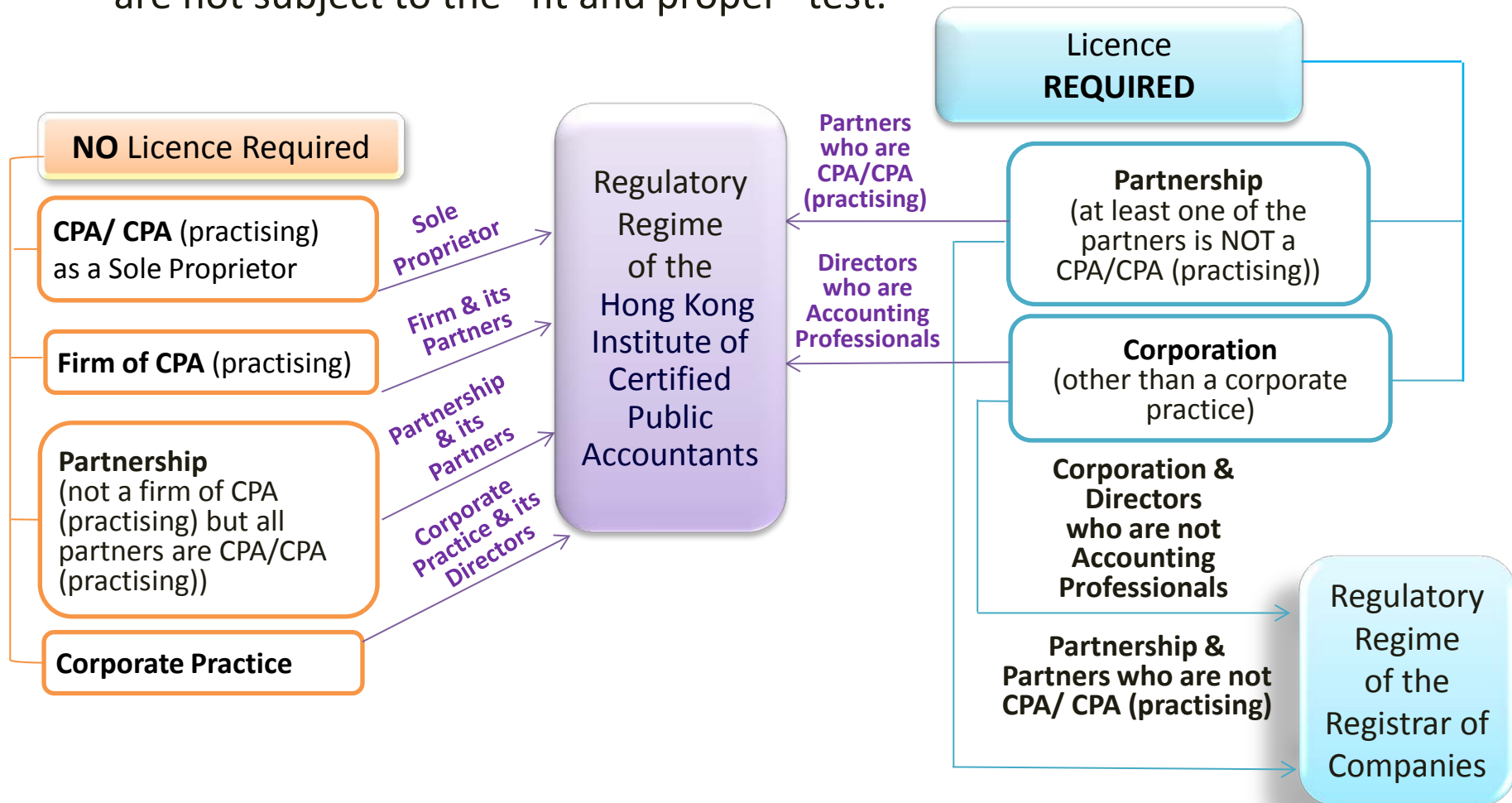
- an authorized institution; 
- a licensed corporation that operates a TCSP business that is ancillary to the corporation's principal business; 
- an accounting professional; 
- a legal professional.   
(AMLO section 53B)

EXEMPT



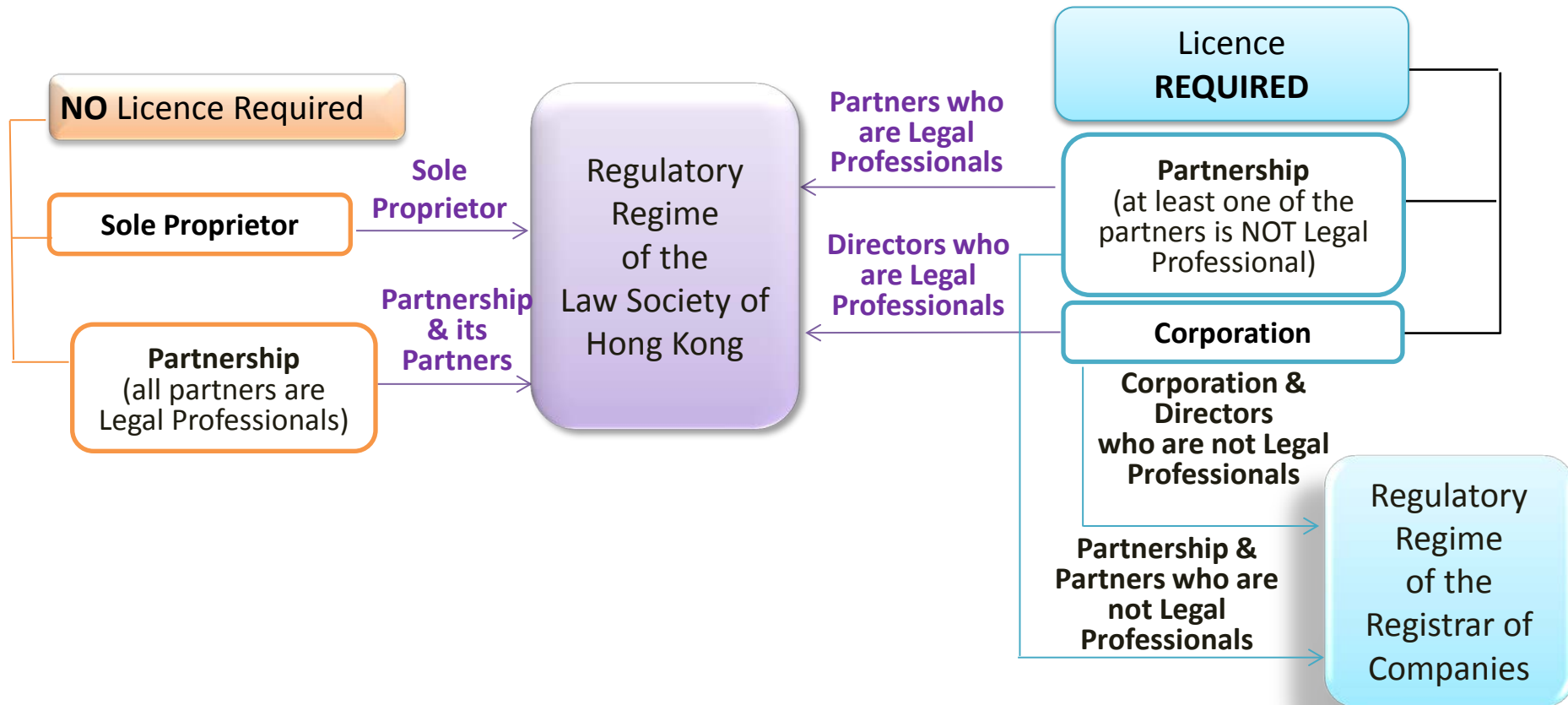
# Licensing Regime and Accounting Professional

- Certified Public Accountant and Certified Public Accountant (Practising) are not subject to the “fit and proper” test.



# Licensing Regime and Legal Professional

- Legal Professionals are not subject to the “fit and proper” test.



# Validity Period and Renewal of Licence



- A licensee may apply to the Registrar for a renewal of the licence.



- Applicants for renewal of a licence will be subject to the same “fit and proper” test applicable to an application for a new licence.

(AMLO sections 53K and 53O)

# Revocation or Suspension of Licence

- The Registrar may revoke a licence or suspend a licence for a specified period if the Registrar considers that an individual licensee, any partner, director or ultimate owner of a licensee is **no longer a fit and proper person** to carry on, or be associated with, a trust or company service business.  
(AMLO section 53Q)



- The Registrar must inform the licensee of the revocation or suspension **by notice in writing.**
- The revocation or suspension of licence takes effect **at the time specified in the notice.**  
(AMLO section 53R)

ACTION TAKEN		EFFECTIVE MO. DAY	
<input checked="" type="checkbox"/> Suspended	<input type="checkbox"/> Revoked		
<input type="checkbox"/> Suspended	<input type="checkbox"/> Revoked		
<input type="checkbox"/> Suspended	<input type="checkbox"/> Revoked		

The above named person was advised



# Registrar's Approval to Become a Partner/ Director/ Ultimate Owner of a TCSP Licensee

- Any person proposing to become a partner, director or an ultimate owner of a licensee is required to obtain the Registrar's prior written approval.
- The application for the approval is to be made by the licensee.
- The Registrar will apply the same "fit and proper" test.  
(AMLO sections 53S, 53T & 53U)



# Licensee's Duty to Give Notifications

➤ A licensee has the duty to notify the Registrar if :-



- There is any change in the particulars previously provided in connection with the licensee's application for the grant or renewal of a licence;
- The licensee intends to cease to carry on the trust or company service business.


(AMLO sections 53W and 53X)



## Application

## Individual

**Corporation**



公司註冊處  
COMPANIES REGISTRY  
香港特別行政區政府  
REGISTRY FOR TRUST AND COMPANY SERVICE PROVIDERS

# TCSP3

此表成為信託或公司服務牌照人的最終牌照人/合辦人/董事申請書  
Application for Approval to Become an Ultimate Owner, a Partner/  
or a Director of a Trust or Company Service Provider Licensee

**第一部分 信託或公司服務牌照人的牌照**  
Part 1 Particulars of Trust or Company Service Provider ("TCSP") Licensee


<p>中文姓名 / 名稱 Name in Chinese</p>  <p>英文姓名 / 名稱 Name in English</p>	
<p>牌照人姓名 / 名稱 Name of Licensee</p>	
<p>信託或公司服務牌照人 信託或公司服務牌照人 TCSP License No.</p>	
<p><b>豁免 Exemption</b> <span style="border: 1px solid black; padding: 2px;">1</span></p>	
<p>根據第四條 615 條（打擊洗黑錢及恐怖分子資金籌集條例）第 53B 條所列入的人士包括下述類別的人士或團體，惟該等人士並非根據下列任何一項（或各項）訂定，方可以此為信託或公司服務牌照人的最終牌照人、合辦人、董事、合夥人、合辦人及合夥人或其成員或成員有聯繫。</p> <p>persons listed in section 53B of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Chapter 615) including individuals or corporations belonging to any of the categories below are not required to declare, appoint, register, the Regulatory or Corporations ("the Regulator") to become an ultimate owner, a partner, a director of a trust or company service provider licensee and, hence, are not required to use this form to apply for the Regulator's approval.</p>	
<p><b>個人 Individual</b></p> <ul style="list-style-type: none"> <li>▶ 會計師 a certified public accountant</li> <li>▶ 一名獨資者 a sole trader</li> <li>▶ 非執業會計師 a former lawyer</li> </ul>	<p><b>公司 Corporation 企業</b></p> <ul style="list-style-type: none"> <li>▶ 會計師樓或法團 a corporate practice of certified public accountants</li> <li>▶ 受託公司 an authorized institution</li> <li>▶ 非執業會計師 a former corporation</li> </ul>
<p>請填妥表格 3 為 Final Official Use</p>	

註冊處 Registration No. CR00000000

第一頁 Page 1

[illegible]

and/  
or

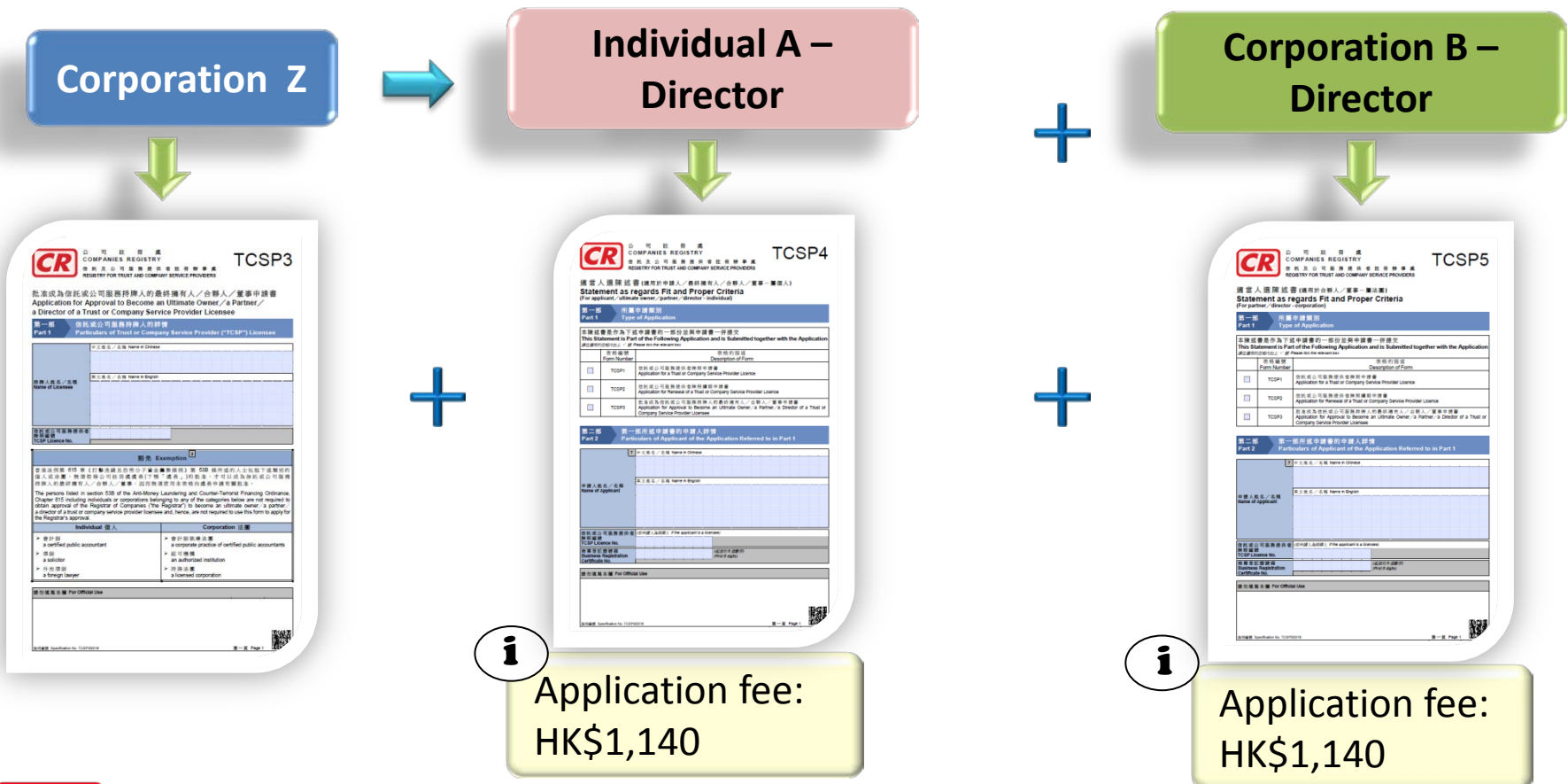
	<b>公司註冊處</b> <b>COMPANIES REGISTRY</b> 新加坡公司註冊處及公司服務提供者 REGISTRY FOR TRUST AND COMPANY SERVICE PROVIDERS	<h1 style="margin: 0;">TCSP5</h1>																				
<b>請參閱申請表格(適用於個人/董事/兼職)</b> <b>Statement as regards Fit and Proper Criteria</b> (For partner/ director/ corporation)																						
<b>第一部分</b> <b>所需填妥表格</b> <b>Part 1</b> <b>Part 1 of Application</b>																						
<p>本申請書是用作填申請書的一部分以填申請書—附英文          This Statement is Part 1 of the Following Application and is Submitted together with the Application          適用於新加坡公司註冊處之申請書          For the Purpose of the Following Application</p>																						
<b>表格號碼</b> <b>Form Number</b>	<b>表格的描述</b> <b>Description of Form</b>																					
<input type="checkbox"/> TCSP1	新加坡公司服務提供者牌照申請書 Application for a Trust or Company Service Provider Licence																					
<input type="checkbox"/> TCSP2	新加坡公司服務提供者牌照續期申請書 Application for Renewal of a Trust or Company Service Provider Licence																					
<input type="checkbox"/> TCSP3	本公司服務提供者同意書轉讓給他人/公司/董事/兼職申請書 Application for Approval to become an Ultimate Owner / a Partner / a Director of a Trust or Company Service Provider Licence																					
<b>第二部分</b> <b>第一部分所填申請書的申請人詳情</b> <b>Part 2</b> <b>Particulars of Applicant of the Application Referred to in Part 1</b>																						
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%; border-bottom: 1px solid black; height: 30px;"></td> <td style="width: 70%; border-bottom: 1px solid black; height: 30px;"></td> </tr> <tr> <td style="border-bottom: 1px solid black; height: 30px;"></td> <td style="border-bottom: 1px solid black; height: 30px;"></td> </tr> <tr> <td style="border-bottom: 1px solid black; height: 30px;"></td> <td style="border-bottom: 1px solid black; height: 30px;"></td> </tr> <tr> <td style="border-bottom: 1px solid black; height: 30px;"></td> <td style="border-bottom: 1px solid black; height: 30px;"></td> </tr> <tr> <td style="border-bottom: 1px solid black; height: 30px;"></td> <td style="border-bottom: 1px solid black; height: 30px;"></td> </tr> <tr> <td style="border-bottom: 1px solid black; height: 30px;"></td> <td style="border-bottom: 1px solid black; height: 30px;"></td> </tr> <tr> <td style="border-bottom: 1px solid black; height: 30px;"></td> <td style="border-bottom: 1px solid black; height: 30px;"></td> </tr> <tr> <td style="border-bottom: 1px solid black; height: 30px;"></td> <td style="border-bottom: 1px solid black; height: 30px;"></td> </tr> <tr> <td style="border-bottom: 1px solid black; height: 30px;"></td> <td style="border-bottom: 1px solid black; height: 30px;"></td> </tr> <tr> <td style="border-bottom: 1px solid black; height: 30px;"></td> <td style="border-bottom: 1px solid black; height: 30px;"></td> </tr> </table>																						
<b>姓名/姓名/公司名稱</b> <b>Name of Applicant</b>	<b>第二姓名/姓名/公司名稱</b> <b>Second Name / Name / Design</b>																					
<b>新加坡公司服務提供者牌照號碼</b> <b>TCSP Licence No.</b>	<b>公司編號/公司名稱/公司服務提供者牌照號碼</b> <b>Company No. / Name / Licence No.</b>																					
<b>新加坡公司服務提供者牌照有效期間</b> <b>Certificate Validity</b>	<b>新加坡公司服務提供者牌照有效期間</b> <b>Certificate Validity</b>																					
<b>提供或獲准提供 For Official Use</b>																						
新加坡公司註冊處 Singapore Companies Registry																						

**i**

Application fee: HK\$1,140 for each person

# Application for Approval to become a TCSP Licensee's Ultimate Owner / Partner/ Director (2)

Example: Applicant – TCSP Licensee Corporation Z





# Application for Approval to become a TCSP Licensee's Ultimate Owner / Partner/ Director (3)

If application is successful



Written approval of the Registrar



The TCSP licensee can make necessary arrangements for the person to become its ultimate owner / partner / director



The TCSP licensee should notify the Registrar of the change in particulars within one month



# Power of Inspection and Discipline

- Site inspections will be carried out to ensure compliance with the CDD and record-keeping requirements.
- Licensees will be subject to disciplinary sanctions to be imposed by the Registrar as follows:-
  - Public reprimand
  - Remedial order to remedy the contravention
  - Payment of a pecuniary penalty not exceeding \$500,000 (AMLO section 53Z)



# Inspections and Interviews

- Up to 9 November 2018
  - Number of **onsite inspections**  
> **1,026**
  - Number of **interviews**  
> **532**



# Applications for TCSPs licences

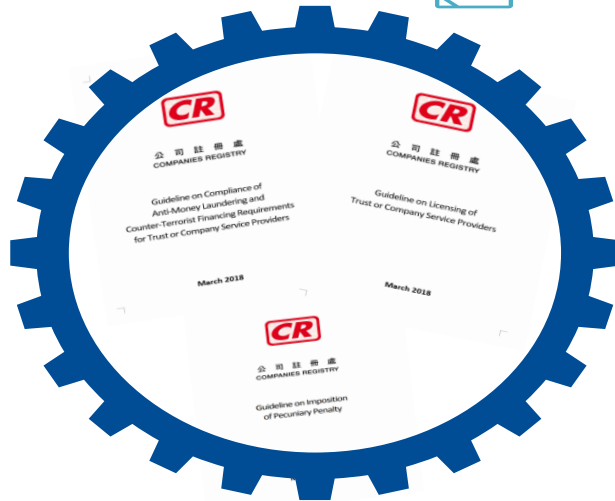
- Up to 9 November 2018
  - Number of **applications**  
> **6,917**
  - Number of **enquiries**  
> **18,389**
  - Number of **visits on TCSP website**  
> **343,142**





# Guidelines and Reference Materials

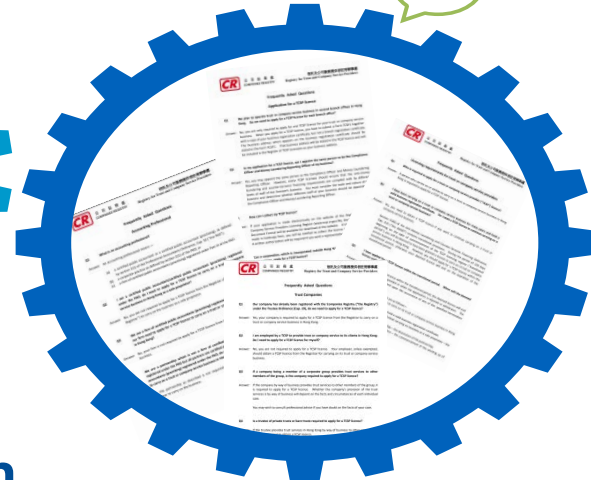
## Guidelines



## Information Pamphlets



## FAQs



## External Circulars



## Demonstration Videos



# Thank You

Registry for Trust and Company Service Providers  
<https://www.tcsp.cr.gov.hk>