

New Initiatives on Anti-Money Laundering & Counter-Terrorist Financing 有關打擊洗錢及恐怖分子資 金籌集的新措施

Ms Ada Chung
鍾麗玲女士

Registrar of Companies
公司註冊處處長

15.10.2019



公 司 註 冊 處
COMPANIES REGISTRY

New Initiatives on AML/CTF (1)

有關打擊洗錢及恐怖分子資金籌集的新措施 (1)

➤ Background 背景

- To fulfill HK's international obligations to combat money laundering and terrorist financing
履行香港應盡的國際責任，以打擊洗錢及恐怖分子資金籌集
- Financial Action Task Force - Mutual Evaluation of Hong Kong
財務行動特別組織 - 就香港進行成員相互評估

New Initiatives on AML/CTF (2)

有關打擊洗錢及恐怖分子資金籌集的新措施 (2)

- Enhancing transparency of beneficial ownership of Hong Kong companies – requirements of keeping Significant Controllers Registers
提升香港公司實益擁有權透明度-備存重要控制人登記冊的規定
- Regulating trust or company service providers (“TCSP”)
規管信託或公司服務提供者

Part 1

第1部分

Keeping of
Significant Controllers Registers
by Companies

公司須備存重要控制人登記冊

Enhancing Transparency of Beneficial Ownership of Hong Kong Companies Companies (Amendment) Ordinance 2018

2018年公司(修訂)條例

提升香港公司實益擁有權透明度

- Commencement – 1 March 2018
生效日期 - 2018年3月1日
- A company incorporated in Hong Kong is required –
在香港成立為法團的公司須 -
 - to identify persons who have significant control over the company
識別對該公司有重大控制權的人
 - to maintain a significant controllers register (“SCR”) containing the required particulars
備存重要控制人登記冊，其內須載有所需詳情

Scope of Application

適用範圍

- All companies formed and registered under the CO or a former Companies Ordinance, including –
所有根據《公司條例》或《舊有公司條例》組成及註冊的公司，當中包括：
 - companies limited by shares
股份有限公司
 - companies limited by guarantee
擔保有限公司
- Listed companies are exempted
上市公司獲豁免遵守有關規定
- Not applicable to registered non-HK companies
新規定不適用於註冊非香港公司

Major Requirements (1)

主要規定 (1)

**Allowing inspection by
law enforcement officers
[s.653X]**

**容許執法人員查閱登記冊
[第653X條]**

**Identifying significant
controllers
[s.653P]**

**識別重要控制人
[第653P條]**

**Keeping a SCR
[s.653H]**

**備存重要控制人登記冊
[第653H條]**

**Updating
information in the SCR
[s.653T]**

**更新登記冊資料
[第653T條]**

**Entering
particulars in the SCR
[ss.653J & 653K]**

**把詳情記入登記冊
[第653J 及653K條]**

Major Requirements (2)

主要規定(2)

- If a company fails to comply with any of the above requirements, the company and each of its responsible persons commit an offence, and each is liable to a fine. Where applicable, there is a daily fine

如公司未有遵從上述任何規定，公司及其每名責任人即屬犯罪，可被各處罰款。如情況適用，另每日被各處罰款

Keeping a SCR

備存重要控制人登記冊

- Each company must keep a SCR even if it does not have a significant controller
即使公司沒有重要控制人，仍須備存重要控制人登記冊
- SCR must be kept –
重要控制人登記冊須備存於 –
 - at the company's registered office or a prescribed place [s.653M]
該公司的註冊辦事處或香港某訂明地方
[第653M條]

Location of SCR (1)

重要控制人登記冊的備存地點 (1)

- Must notify the Registrar of Companies (“the Registrar”) –
須通知公司註冊處處長(下稱「處長」)-
 - the place where SCR is kept [s.653M]
登記冊備存所在的地方 [第653M條]
 - of a change in the place at which SCR is kept [s.653N]
登記冊備存所在的地方有所更改[第653N條]

Location of SCR (2)

重要控制人登記冊的備存地點 (2)

➤ Exception –

例外情況 –

- registered office

註冊辦事處

- same place where register of members is kept, of which the Registrar has been notified

成員登記冊備存所在的同一地方，而處長已獲通知有關該備存的地方

Contents of SCR

登記冊的內容

➤ S.653I:

第653I條：

- Required particulars of each significant controller specified in Schedule 5B
每名重要控制人的所需詳情(附表5B指明的詳情)
- Particulars of any registrable change
須登記更改的詳情
- Name and contact details of a designated representative
指定代表的姓名或名稱及聯絡資料
- Additional matters specified in Schedule 5C
附表5C指明的額外事項

➤ SCR must not be empty

登記冊不得留空

Significant Controllers

重要控制人

- A registrable person or a registrable legal entity [s.653A]
須登記人士或須登記法律實體[第653A條]
- Registrable person - includes natural person that has significant control over the company [s.653C]
須登記人士 - 包括對公司有重大控制權的自然人 [第653C條]
- Registrable legal entity - legal entity which is the immediate shareholder of, and has significant control over, the company [s.653D]
須登記法律實體 - 為公司直接股東、並對該公司有重大控制權的法律實體[第653D條]

Significant Control

重大控制權

- S.653E: meeting one or more of the conditions in Part 1 of Schedule 5A, including:

凡某人符合附表5A第1部的一個或以上的條件，即對公司有重大控制權，包括：

- directly or indirectly holding more than 25% of the issued shares of the company

直接或間接持有該公司25%以上的已發行股份

- directly or indirectly holding more than 25% of the voting rights in the company

直接或間接持有該公司25%以上的表決權

- directly or indirectly holding the right to appoint or remove a majority of the board of directors of the company

直接或間接持有委任或罷免該公司董事局的過半數董事的權利

Example of Registrable Person and Registrable Legal Entity

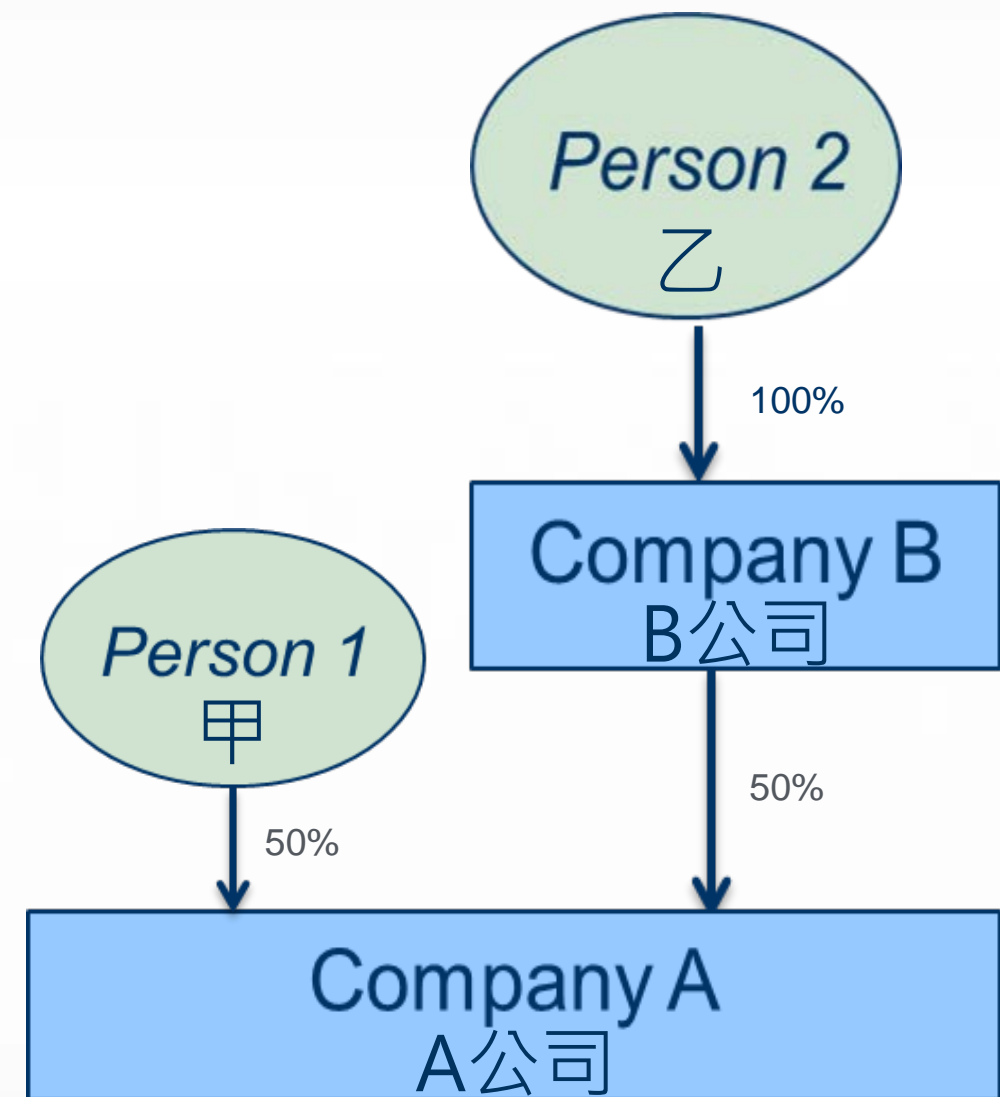
須登記人士及須登記法律實體的例子

Company A's SCR:

A公司的重要控制人登記冊：

- Person 1 is a registrable person
甲為須登記人士
- Company B is a registrable legal entity
B公司則為須登記法律實體
- Person 2 is also a registrable person by holding 50% of Company A indirectly through Company B

乙透過B公司間接持有A公司50%的股份，亦為須登記人士



Designated Representative

指定代表

S.653ZC: must designate at least one person to assist law enforcement officers in relation to the SCR

第653ZC條：須指定最少一名人士，就重要控制人登記冊事宜協助執法人員

➤ The person must be one of the following: -

該人須由以下任何一類人士擔任：-

- a member, director or employee of the company that is a natural person resident in HK

該公司的成員、董事或僱員，而且必須是居於香港的自然人

- an accounting professional, a legal professional or a TCSP licensee as defined in the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Cap. 615

《打擊洗錢及恐怖分子資金籌集條例》(第615章)所界定的會計專業人士、法律專業人士或信託或公司服務持牌人

Identifying Significant Controllers

識別重要控制人

- Companies are required to take reasonable steps [s.653P] -
公司須採取合理步驟 [第653P條] :
 - to ascertain whether it has any significant controller
確定公司是否有重要控制人
 - to identify each significant controller
識別每一個重要控制人

Duty to Keep Information Up-to-date

保持登記冊資料更新的責任

- S.653T: If the company knows or reasonably believes that –
第653T條: 如公司知道或有理由相信：
- a person ceases to be the company's significant controller or
某人不再是該公司的重要控制人，或
 - any particular entered in the SCR for the person is incorrect
or incomplete
就該人而記入重要控制人登記冊內的任何詳情不正確或
不完整
- it must give notice to such person requiring the person to
confirm whether such change has occurred and provide the
details of such change
公司須向該人發出通知，要求該人確認該等更改已發生並
提供該等更改的詳情

Allowing Inspection & Making Copies

容許查閱並複製或複印登記冊

- S.653X: A company must make available its SCR for inspection/making of copies upon demand by –
第653X條:公司須應以下人員作出的要求, 提供重要控制人登記冊以供其查閱 / 複製或複印:
- an officer of the Companies Registry, for ascertaining whether the statutory requirements relating to SCR are complied with
應公司註冊處人員為確定有關備存重要控制人登記冊的法例規定是否已獲遵從而作出的要求
 - a law enforcement officer in the performance of a specified function under the laws of Hong Kong
應執法人員在香港法律下執行指明職能而作出的要求
 - definition of law enforcement officer in section 653B
執法人員的定義 [第653B條]

Obligations of Notice Addressees

通知的收件人的責任

- S.653ZA : a person who has received a notice relating to the SCR issued by a company must comply with the requirements in the notice within 1 month from the date of notice

第653ZA條訂明，任何人接獲公司就重要控制人登記冊發出的通知後，須在自該通知的日期起計1個月內遵從該通知所述明的規定。

- Failure to comply with the notice is an offence and the notice addressee and every related person are liable to a fine at level 4 (\$25,000) [s.653ZA]

凡未有遵從通知所述規定，即屬罪行。通知的收件人及其每名有關人士可各處第4級罰款(即25,000元)。[第653ZA條]

Inspection of Significant Controllers Register

查閱重要控制人登記冊

- Site inspections conducted by CR
公司註冊處進行實地巡查

Period 期間	No. of companies inspected 巡查公司數目	No. of companies having kept SCR 有備存重要控制人登記 冊的公司數目	SCR not available 無提供重要控制 人登記冊
From 由 1.3.2018 up to 至 30.9.2018	2,016	1,570 (78%)	446 (22%)
From 由 1.10.2018 up to 至 30.9.2019	5,354	4,855 (91%)	499 (9%)
Total 總數	7,370	6,425 (87%)	945 (13%)

Enforcement Actions 執法行動

From October 2018 to September 2019:

由2018年10月至2019年9月：

➤ Summonses issued : 166

已發出傳票: 166張

Further Information

進一步資料

- Dedicated thematic section on “Significant Controllers Register” on Companies Registry’s website
(www.cr.gov.hk/en/scr)
公司註冊處網站的專設欄目「重要控制人登記冊」
(www.cr.gov.hk/en/scr)
- Companies (Amendment) Ordinance 2018
《2018年公司(修訂)條例》
- Companies Registry External Circular No. 2/2018
公司註冊處對外通告第2 / 2018號
- Guideline on the Keeping of the SCR by Companies
《公司備存重要控制人登記冊指引》
- Frequently asked questions
常見問題
- Hotline: 3142 2822
熱線電話: 3142 2822

Part 2

第2部分

Licensing Regime for
Trust or Company Service
Providers

信託或公司服務提供者
發牌制度

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

《打擊洗錢及恐怖分子資金籌集條例》(1)

- To prescribe statutory CDD and record-keeping requirements for designated non-financial businesses and professions (DNFBPs) when these professionals engage in specified transactions

訂明客戶盡職審查及備存紀錄的法例規定適用於指定非金融企業及行業人士，而有關規定於這些專業人士進行指明交易時適用

Legal Professionals 法律專業人士



⚖️ 《Legal Practitioners Ordinance》
(Chapter 159)
《法律執業者條例》
(第159章)

The Law Society of
Hong Kong
香港律師會

Accounting Professionals 會計專業人士



📊 《Professional Accountants Ordinance》
(Chapter 50)
《專業會計師條例》
(第50章)

Hong Kong Institute
of Certified Public
Accountants
香港會計師公會

Estate Agents 地產代理



🏠 《Estate Agents Ordinance》
(Chapter 511)
《地產代理條例》
(第511章)

Estate Agents
Authority
地產代理監管局

Trust or Company Service Providers 信託或公司服務提供者



《Anti-Money Laundering and Counter-Terrorist Financing Ordinance》
(Chapter 615)
《打擊洗錢及恐怖分子資金籌集條例》
(第615章)

Companies
Registry
公司註冊處

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

《打擊洗錢及恐怖分子資金籌集條例》(2)

- The licensing regime for TCSPs came into operation on 1 March 2018
信託或公司服務提供者發牌制度自2018年3月1日起實施
- Introduce a licensing regime for TCSPs to require them to apply for a licence from the Registrar and satisfy a “fit-and-proper” test before they can provide trust or company services as a business in Hong Kong [Anti-Money Laundering and Counter-Terrorist Financing Ordinance (“AMLO”) s.53F, 53G and 53H]
引入信託或公司服務提供者發牌制度，規定該等服務提供者須向處長申請牌照，並符合適當人選準則，方可在香港經營提供信託或公司服務的業務。[《打擊洗錢及恐怖分子資金籌集條例》(下稱《打擊洗錢條例》)第53F、53G及53H條]



《Anti-Money Laundering and Counter-Terrorist Financing Ordinance》 (3)

《打擊洗錢及恐怖分子資金籌集條例》 (3)

- The Registrar keeps a register of all TCSP licensees, which is open for public inspection [AMLO s.53D]

處長就所有信託或公司服務持牌人備存持牌人登記冊，該登記冊須提供予公眾人士查閱
[《打擊洗錢條例》 第53D條]



“Fit and Proper” Test

「適當人選」的評定準則



- Applicant carrying on business as a sole proprietor/ directors or partners of the applicant, and their ultimate owners (where applicable), will be subject to a “fit and proper” test
以獨資經營人身分經營業務的申請人 / 申請人的董事或合夥人，以及其最終擁有人(視何者適當而定)，均須被評定是否屬適當人選
- In determining whether a person is fit and proper to carry on, or be associated with, a trust or company service business, the Registrar will have regard to the matters stated in section 53I of the AMLO and any other matter that the Registrar considers relevant
處長在決定某人是否屬經營信託或公司服務業務或與該等業務有聯繫的適當人選時，須考慮《打擊洗錢條例》第53I條所述的事宜及其認為有關的任何其它事宜

Licensing Regime for TCSPs

信託或公司服務提供者發牌制度

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

信託或公司服務提供者的牌照規定（包括適當人選的評定）並不適用於：

- an authorized institution
認可機構
- a licensed corporation that operates a trust or company service business that is ancillary to the corporation's principal business
經營信託或公司服務業務的持牌法團（前提是該業務附屬於該法團的主要業務）
- an accounting professional
會計專業人士
- a legal professional
法律專業人士

[AMLO s.53B]

[《打擊洗錢條例》第53B條]

EXEMPT

Licensing Regime and Accounting Professional 發牌制度及會計專業人士

NO Licence Required
無須申領牌照

CPA/ CPA (practising)
as a Sole Proprietor
以獨資經營人身分經營業務的
會計師 / 執業會計師

Firm of CPA (practising)
執業會計師事務所

Partnership
(not a firm of CPA (practising)
but all partners are CPA/CPA
(practising))
合夥(不屬執業會計師事務所，
但所有合夥人均屬會計師 / 執
業會計師)

Corporate Practice
執業法團

*Sole
Proprietor
獨資經營人*

*Firm &
its Partners
事務所及其
合夥人*

*Partnership &
its Partners
合夥及其
合夥人*

*Corporate Practice &
its Directors
執業法團及其董事*

**Regulatory
Regime
of the
HKICPA**
香港會計
師公會監
管的制度

*Partners who
are CPA/CPA
(practising)
屬會計師 / 執業
會計師的合夥人*

*Directors who
are
Accounting
Professionals
屬會計專業人
士的董事*

**Licence
REQUIRED**
必須申領牌照

Partnership
(at least one of the partners is
NOT a CPA/CPA (practising))
合夥
(至少有一名合夥人不屬會計
師或執業會計師)

Corporation
(other than a corporate
practice)
法團
(執業法團除外)

*Corporation &
Directors
who are not
Accounting
Professionals
法團及不屬會計專
業人士的董事*

*Partnership &
Partners who are not
CPA/ CPA
(practising)
合夥及不屬會計
師/執業會計師
的合夥人*

**Regulatory
Regime
of the Registrar of
Companies**
公司註冊處
處長監管的
制度

Validity Period and Renewal of Licence

牌照有效期及牌照續期

- In usual circumstances, a licence is valid for 3 years
牌照有效期一般為3年
- A licensee may apply to the Registrar for a renewal of the licence
持牌人可向處長申請牌照續期
- Applicants for renewal of a licence will also be subject to the “fit and proper” test
牌照續期申請人亦須被評定是否屬「適當人選」

[AMLO s. 53K and 53O]

[《打擊洗錢條例》第53K及53O條]



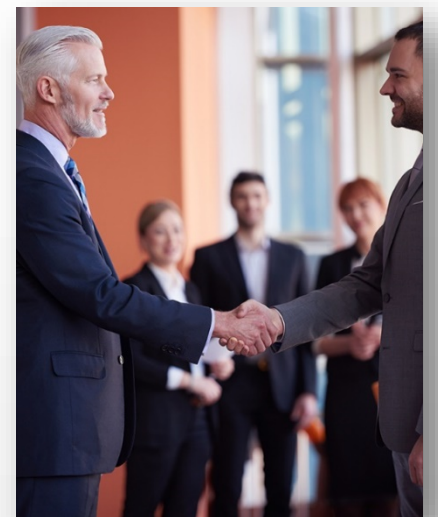
Registrar's Approval to Become a Partner/ Director/ Ultimate Owner of a TCSP Licensee

取得處長批准而成為信託或公司服務持牌人的 合夥人 / 董事 / 最終擁有人

- A person must not become a partner, director or an ultimate owner of a licensee without the Registrar's prior written approval
除非已於事前取得處長的書面批准，否則任何人不得成為持牌人的合夥人、董事或最終擁有人
- The application for the approval is to be made by the licensee
取得處長批准的申請必須由持牌人提出
- The Registrar will apply the "fit and proper" test
處長會採用「適當人選」的評定準則

[AMLO s. 53S, 53T & 53U]

[《打擊洗錢條例》第53S、53T 及 53U條]



AML/CTF Requirements (1)

反洗錢及恐怖分子集資規定 (1)

- Under the AMLO and the Guideline on Compliance of Anti-Money Laundering and Counter-Terrorist Financing Requirements for TCSPs

根據《打擊洗錢條例》及《信託或公司服務提供者遵從打擊洗錢及恐怖分子資金籌集規定的指引》

- Carrying out customer due diligence measures
執行客戶盡職審查措施
- Keeping records of customers and transactions
備存關乎客戶或交易的紀錄

AML/CTF Requirements (2)

反洗錢及恐怖分子集資規定 (2)

- Under other legislation
根據其他法例
 - Complying with the requirements relating to:
遵從關乎以下方面的法例規定：
 - * Financial sanctions
金融制裁
 - * Terrorist financing
恐怖分子資金籌集
 - * Proliferation of weapons of mass destruction
大規模毀滅武器擴散資金籌集
- Reporting suspicious transactions to the Joint Financial Intelligence Unit
向聯合財富情報組報告可疑交易

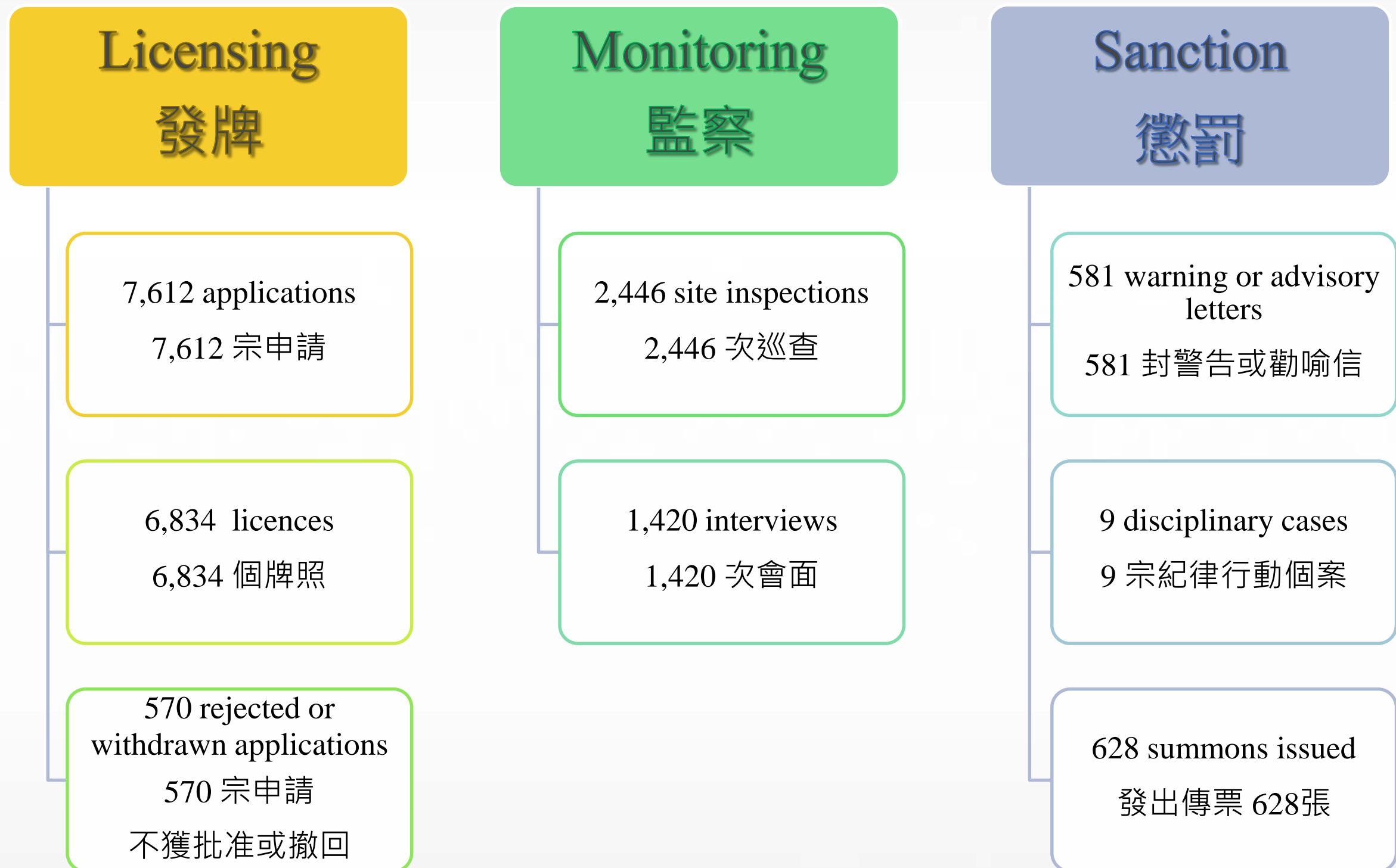
Enforcement of the Licensing Regime

發牌制度的執行



Statistics as at 30 September 2019

截至2019年9月30日的統計數字



Guidelines and Reference Materials

指引及參考資料

- The Registrar has published the following guidelines:-
處長公布了以下指引：
 - Guideline on Licensing of Trust or Company Service Providers
《信託或公司服務提供者發牌指引》
 - Guideline on Compliance of Anti-Money Laundering and Counter-Terrorist Financing Requirements for Trust or Company Service Providers
《信託或公司服務提供者遵從打擊洗錢及恐怖分子資金籌集規定的指引》
 - Guideline on Imposition of Pecuniary Penalty
《施加罰款指引》
- External circulars, pamphlets, AML/CTF requirements and references, demonstration videos, hotline, FAQs, etc.
對外通告、小冊子、反洗錢及恐怖分子集資規定及參考資料、示範短片、查詢熱線、常見問題等
- Website of Registry for Trust and Company Service Providers
(www.tcsp.cr.gov.hk)
信託及公司服務提供者註冊辦事處網站(www.tcsp.cr.gov.hk)

Thank You

www.cr.gov.hk

www.tcsp.cr.gov.hk