

may disclose to the public details of its decision, the reasons for which the decision was made, and any material facts relating to the case.

- (9) The powers specified in subsections (2)(c) and (4) are not exercisable in relation to the Government.

22. Procedural requirements in respect of exercise of powers under section 21

- (1) A relevant authority may only exercise its powers under section 21 in respect of a financial institution after giving the financial institution a reasonable opportunity to be heard.
- (2) If a relevant authority exercises a power under section 21 in respect of a financial institution, the relevant authority must inform the financial institution of its decision by notice in writing.
- (3) A notice under subsection (2) must include—
- (a) a statement of the reasons for the decision;
 - (b) in so far as applicable, the terms in which the financial institution is reprimanded under the decision;
 - (c) in so far as applicable, the action that the financial institution is required to take under the decision;
 - (d) in so far as applicable, the amount of any pecuniary penalty imposed under the decision and, if the penalty is to be paid within a period other than that specified in section 21(3)(a), the period within which it is required to be paid; and
 - (e) a statement that the financial institution may apply to the Review Tribunal for a review of the decision.

23. Guidelines on how relevant authorities exercise power to impose pecuniary penalty

- (1) A relevant authority must, before it first exercises its power to impose a pecuniary penalty referred to in section 21(2)(c), publish in the Gazette and in any other manner that it considers appropriate, guidelines to indicate the manner in which it proposes to exercise that power.
 - (2) In exercising its power to impose a pecuniary penalty referred to in section 21(2)(c), the relevant authority must have regard to the guidelines published by it under subsection (1).
 - (3) Guidelines published under subsection (1) are not subsidiary legislation.
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Part 5

Regulation of Operation of Money Service

Division 1—Preliminary

24. Interpretation of Part 5

In this Part—

authorized officer (獲授權人員) means a person appointed under section 46;

director (董事) includes any person occupying the position of director by whatever name called;

licence (牌照) means a licence granted under section 30 or renewed under section 31 and includes a licence that is deemed to have been granted under section 82;

register (登記冊) means the register of licensees maintained by the Commissioner under section 27;

ultimate owner (最終擁有人)—

(a) in relation to an individual—

(i) means another individual who ultimately owns or controls the money service business of the first-mentioned individual; or

(ii) if the first-mentioned individual is acting on behalf of another person, means the other person;

(b) in relation to a partnership, means an individual who—

(i) is entitled to or controls, directly or indirectly, more than a 25% share of the capital or profits of the partnership;

- (ii) is, directly or indirectly, entitled to exercise or control the exercise of more than 25% of the voting rights in the partnership; or
 - (iii) exercises ultimate control over the management of the partnership; and
- (c) in relation to a corporation, means an individual who—
- (i) 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;
 - (ii) 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
 - (iii) exercises ultimate control over the management of the corporation. *(Amended 4 of 2018 s. 14)*

25. Persons to whom this Part does not apply

This Part does not apply to the Government nor to—

- (a) an authorized institution;
- (b) a licensed corporation that operates a money service that is ancillary to the corporation's principal business;
- (c) an authorized insurer that operates a money service that is ancillary to the insurer's principal business;
- (d) a licensed insurance broker company that operates a money service that is ancillary to the company's principal business; *(Amended 12 of 2015 s. 158; 18 of 2015 s. 70)*
- (e) a licensed individual insurance agent or a licensed insurance agency that operates a money service that is ancillary to the agent's or agency's principal business; *(Amended 12 of 2015 s. 158; 18 of 2015 s. 70)*

- (f) an SVF licensee that operates a money service that is ancillary to the licensee's principal business; (*Added 18 of 2015 s. 70. Amended 17 of 2025 s. 176*)
- (g) a system operator or settlement institution of a designated retail payment system that operates a money service that is ancillary to its business as a system operator or settlement institution; or (*Added 18 of 2015 s. 70. Amended 17 of 2025 s. 176*)
- (h) a stablecoin licensee that operates a money service that is a business activity of the licensee under its stablecoin licence (within the meaning of section 7(d) of the Stablecoins Ordinance (17 of 2025)). (*Added 17 of 2025 s. 176*)

26. Delegation of functions

- (1) Subject to subsection (2), the Commissioner of Customs and Excise may in writing delegate any of his or her functions under this Ordinance to any public officer employed in the Customs and Excise Department.
- (2) The Commissioner of Customs and Excise must not delegate any of the functions under this section or section 51.

27. Commissioner to maintain register of licensees

- (1) The Commissioner must maintain a register of licensees, in any form the Commissioner thinks fit, containing—
 - (a) the name of every licensee; and
 - (b) in respect of each licensee—
 - (i) if the licensee is licensed to operate a money service at specified premises, the address of every premises at which the licensee may operate a money service; or

- (ii) in any other case, the correspondence address of the licensee.
- (2) The register is to be kept at the office of the Commissioner.
- (3) The register must be made available for inspection by members of the public to enable any of them to ascertain whether he or she is dealing with a licensee.
- (4) Members of the public are entitled, without charge, to inspect the register during normal office hours.

28. Certified copy of register or entry in register admissible as evidence

- (1) Any person may, on payment of the fee specified in Schedule 3, obtain—
 - (a) a certified copy or an uncertified copy of the register or of an entry in or extract from the register; or
 - (b) a certificate by the Commissioner stating that the name of a person has been entered on or removed from the register or has not been entered on the register.
- (2) A copy of the register, or of an entry in or extract from the register, purporting to be certified by the Commissioner is admissible in evidence in any criminal or civil proceedings on production without further proof and is evidence of the facts stated in the copy.
- (3) The fact that the name of a person does not appear on a copy of the register purporting to be certified by the Commissioner is evidence that the person was not, at the date on which the copy is so certified, licensed.
- (4) A certificate purporting to be signed by the Commissioner and stating that the name of a person has been entered on or removed from the register, or has not been entered on the register, is admissible in evidence in any criminal or civil

proceedings on production without further proof and is to be conclusive evidence of the facts stated in the certificate.

Division 2—Licence for Operating Money Service

29. Restriction on operating money service

- (1) A person commits an offence if the person operates a money service without a licence.
- (2) A person who commits an offence under subsection (1) is liable—*(Amended 15 of 2022 s. 22)*
 - (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (3) If a person is convicted of an offence under this section, the court or magistrate may order that the person is to be disqualified from holding a licence for a period specified in the order beginning on the date of the order.

(Amended 15 of 2022 s. 22)

30. Grant of licence

- (1) An application for the grant of a licence—
 - (a) must be made to the Commissioner in the form and manner specified by the Commissioner; and
 - (b) must be accompanied by the fee specified in Schedule 3.
- (2) The Commissioner may, on an application under subsection (1), grant to the applicant a licence to operate a money service.
- (3) The Commissioner may grant a licence to an applicant only if the Commissioner is satisfied that—

- (a) (i) where the applicant is an individual—
 - (A) the individual is a fit and proper person to operate a money service; and
 - (B) if there is an ultimate owner in relation to the individual, the ultimate owner is a fit and proper person to be associated with the business of operating a money service;
 - (ii) where the applicant is a partnership—
 - (A) each partner in the partnership is a fit and proper person to operate a money service; and
 - (B) if there is an ultimate owner in relation to the partnership, the ultimate owner is a fit and proper person to be associated with the business of operating a money service; or
 - (iii) where the applicant is a corporation—
 - (A) each director of the corporation is a fit and proper person to be associated with the business of operating a money service; and
 - (B) if there is an ultimate owner in relation to the corporation, the ultimate owner is a fit and proper person to be associated with the business of operating a money service; and
- (b) in relation to an application to operate a money service at any particular premises—
 - (i) the premises are suitable to be used for the operation of a money service; and
 - (ii) where the premises are domestic premises, the applicant has secured the written consent of every occupant of the premises for any authorized person

as defined by section 8 to enter the premises for the purpose of exercising the powers under section 9.

- (4) In determining whether a person is a fit and proper person under subsection (3)(a), the Commissioner must, in addition to any other matter that the Commissioner considers relevant, have regard to the following—
- (a) whether the person has been convicted of—
- (i) an offence under section 5(5), (6), (7) or (8), 10(1), (3), (5), (6), (7) or (8), 13(1), (3), (5), (6), (7) or (8), 17(9), 20(1), 61(2) or 66(3);
 - (ii) an offence under section 14 of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575);
(Amended 4 of 2018 s. 15)
 - (iii) an offence under section 25(1), 25A(5) or (7) of, or any offence specified in Schedule 1 to, the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405); or
 - (iv) an offence under section 25(1), 25A(5) or (7) of, or any offence specified in Schedule 1 or 2 to, the Organized and Serious Crimes Ordinance (Cap. 455);
- (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)(i), (ii), (iii) or (iv) 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 persistently failed to comply with any requirement imposed under this Ordinance or any regulation made by the Commissioner under section 51;
 - (d) whether the person, being an individual, is an undischarged bankrupt or is the subject of any bankruptcy proceedings under the Bankruptcy Ordinance (Cap. 6);
 - (e) whether the person, being a corporation, is in liquidation or is the subject of a winding up order, or there is a receiver appointed in relation to it.
- (5) On granting a licence, the Commissioner may impose any condition that the Commissioner thinks fit.
 - (6) If the Commissioner imposes any condition on a licence, the Commissioner must, at the time the licence is granted, inform the licensee by notice in writing.
 - (7) An imposition of any condition under subsection (5) takes effect at the time the notice under subsection (6) is received by the licensee, or at the time specified in the notice under subsection (6), whichever is the later.
 - (8) If the Commissioner refuses to grant a licence under this section, the Commissioner must inform the applicant by notice in writing.
 - (9) A notice under subsection (6) or (8) must include—
 - (a) a statement of the reasons for the decision; and
 - (b) a statement that the licensee or applicant, as the case requires, may apply to the Review Tribunal for a review of the decision.
 - (10) Subject to section 34, a licence granted under this section is valid for 2 years or, if the Commissioner considers it appropriate in any particular case, any other period

determined by the Commissioner, beginning on the date on which it is granted.

31. **Renewal of licence**

- (1) A licensee may apply to the Commissioner for a renewal of the licensee's licence.
- (2) An application for the renewal of a licence—
 - (a) must be made not later than 45 days before the licence is due to expire;
 - (b) must be made to the Commissioner in the form and manner specified by the Commissioner; and
 - (c) must be accompanied by the fee specified in Schedule 3.
- (3) The Commissioner may, on an application under subsection (2), renew the licence.
- (4) Section 30(3) and (4) applies to an application for renewal of a licence under this section as it applies to an application for a licence.
- (5) On renewing a licence, the Commissioner may amend or remove any condition of the licence previously imposed on the licensee, or impose any new condition on the licensee, that the Commissioner thinks fit.
- (6) If the Commissioner amends or removes any condition or imposes any new condition, the Commissioner must, at the time the licence is renewed, inform the licensee by notice in writing.
- (7) An amendment, removal or imposition of any condition under subsection (5) takes effect at the time the notice under subsection (6) is received by the licensee, or at the time specified in the notice under subsection (6), whichever is the later.

- (8) If the Commissioner refuses to renew a licence under this section, the Commissioner must inform the licensee by notice in writing.
- (9) A notice under subsection (6) or (8) must include—
 - (a) a statement of the reasons for the decision; and
 - (b) a statement that the licensee may apply to the Review Tribunal for a review of the decision.
- (10) A licence in respect of which an application for renewal is made under this section and which expires before the determination of the application by the Commissioner remains in force—
 - (a) until the licence is renewed; or
 - (b) if the renewal is refused, until the Commissioner's decision to refuse to renew the licence takes effect,
unless the application is withdrawn or the licence is revoked or suspended under section 34.
- (11) A renewal granted under this section takes effect—
 - (a) on the day following the expiration of the licence; or
 - (b) if subsection (10) applies, on the day following the day on which the licence would have expired but for that subsection.
- (12) Subject to section 34, a licence renewed under this section is valid for 2 years or, if the Commissioner considers it appropriate in any particular case, any shorter period determined by the Commissioner, beginning on the date on which it is renewed.

32. Amendment of conditions in licence

- (1) The Commissioner may, in relation to a licence, amend or remove any condition of the licence previously imposed on

the licensee, or impose any new condition on the licensee, if the Commissioner is satisfied that it is reasonable to do so in the circumstances.

- (2) If the Commissioner amends or removes any condition or imposes any new condition in respect of a licence, the Commissioner must inform the licensee by notice in writing.
- (3) A notice under subsection (2) must include—
 - (a) a statement of the reasons for the decision; and
 - (b) a statement that the licensee may apply to the Review Tribunal for a review of the decision.
- (4) An amendment, removal or imposition of any condition under this section takes effect at the time the notice under subsection (2) is received by the licensee, or at the time specified in the notice under subsection (2), whichever is the later.

33. Form of licence

A licence is to be in a form specified by the Commissioner and must—

- (a) specify—
 - (i) in relation to a licence to operate a money service at specified premises, the address of every premises at which the licensee may operate a money service; or
 - (ii) in any other case, the correspondence address of the licensee;
- (b) be endorsed with the conditions imposed or amended under section 30, 31 or 32; and
- (c) specify the period for which the licence is valid.

34. Revocation or suspension of licence

- (1) The Commissioner may exercise any of the powers specified in subsection (2) if—
 - (a) the Commissioner is of the opinion that in relation to a licence—
 - (i) where the licensee is an individual—
 - (A) the individual is no longer a fit and proper person to operate a money service; or
 - (B) if there is an ultimate owner in relation to the individual, the ultimate owner is no longer a fit and proper person to be associated with the licensee's business of operating a money service;
 - (ii) where the licensee is a partnership—
 - (A) any partner in the partnership is no longer a fit and proper person to operate a money service; or
 - (B) if there is an ultimate owner in relation to the partnership, the ultimate owner is no longer a fit and proper person to be associated with the licensee's business of operating a money service; or
 - (iii) where the licensee is a corporation—
 - (A) any director of the corporation is no longer a fit and proper person to be associated with the licensee's business of operating a money service; or
 - (B) if there is an ultimate owner in relation to the corporation, the ultimate owner is no longer a fit and proper person to be associated with the licensee's business of operating a money service; or

- (b) a licensee operates a money service at any domestic premises, and—
 - (i) any occupant of the premises revokes his or her written consent previously given for any authorized person as defined by section 8 to enter the premises for the purpose of exercising the powers under section 9; or
 - (ii) any new occupant of the premises refuses to give such a written consent.
- (2) The specified powers are—
 - (a) to revoke the licence; or
 - (b) to suspend the licence for a period specified by the Commissioner or until the occurrence of an event specified by the Commissioner.
- (3) The Commissioner may only exercise a power under subsection (1) after giving the licensee a reasonable opportunity to be heard.
- (4) If the Commissioner exercises a power under subsection (1) in respect of a licence, the Commissioner must inform the licensee of the decision by notice in writing.
- (5) A notice under subsection (4) must include—
 - (a) a statement of the reasons for the decision;
 - (b) for a decision to suspend a licence, the duration and terms of the suspension;
 - (c) for a decision to revoke a licence, the time within which the licence is to be surrendered to the Commissioner; and
 - (d) a statement that the licensee may apply to the Review Tribunal for a review of the decision.

- (6) A revocation or suspension of a licence under this section takes effect at the time specified in the notice under subsection (4).
- (7) If a licence is revoked or suspended under this section, no licence fee paid in respect of the grant or renewal of the licence is to be refunded.
- (8) If a person whose licence is revoked does not surrender the licence to the Commissioner within the time specified in the notice given to the person under subsection (4), the person commits an offence and is liable on conviction to a fine at level 5.

35. *Commissioner’s approval required in respect of persons proposing to become licensee’s directors*

- (1) In relation to a licensee that is a corporation, a person must not become a director of the corporation unless the Commissioner has, on an application of the licensee, given his or her approval in writing.
- (2) An application for the approval of the Commissioner under this section—
 - (a) must be made in the form and manner specified by the Commissioner; and
 - (b) must be accompanied by the fee specified in Schedule 3.
- (3) The Commissioner may give an approval under this section only if the Commissioner is satisfied that the person in relation to whom the application is made is a fit and proper person to be associated with the licensee’s money service business.
- (4) In determining whether a person is a fit and proper person under subsection (3), the Commissioner must, in addition to any other matter that the Commissioner considers relevant,

have regard to the matters specified in section 30(4)(a), (b), (c), (d) and (e).

- (5) If the Commissioner refuses to give an approval under this section, the Commissioner must inform the licensee by notice in writing.
- (6) A notice under subsection (5) must include—
 - (a) a statement of the reasons for the decision; and
 - (b) a statement that the licensee may apply to the Review Tribunal for a review of the decision.
- (7) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

36. Commissioner’s approval required in respect of persons proposing to become licensee’s ultimate owners

- (1) A person must not become an ultimate owner of a licensee unless the Commissioner has, on an application of the licensee, given his or her approval in writing.
- (2) An application for the approval of the Commissioner under this section—
 - (a) must be made in the form and manner specified by the Commissioner; and
 - (b) must be accompanied by the fee specified in Schedule 3.
- (3) The Commissioner may give an approval under this section only if the Commissioner is satisfied that the person in relation to whom the application is made is a fit and proper person to be associated with the licensee’s money service business.
- (4) In determining whether a person is a fit and proper person under subsection (3), the Commissioner must, in addition to any other matter that the Commissioner considers relevant,

have regard to the matters specified in section 30(4)(a), (b), (c), (d) and (e).

- (5) If the Commissioner refuses to give an approval under this section, the Commissioner must inform the licensee by notice in writing.
- (6) A notice under subsection (5) must include—
 - (a) a statement of the reasons for the decision; and
 - (b) a statement that the licensee may apply to the Review Tribunal for a review of the decision.
- (7) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

37. Commissioner’s approval required in respect of persons proposing to become licensee’s partners

- (1) In relation to a licensee that is a partnership, a person must not become a partner in the partnership unless the Commissioner has, on an application of the licensee, given his or her approval in writing.
- (2) An application for the approval of the Commissioner under this section—
 - (a) must be made in the form and manner specified by the Commissioner; and
 - (b) must be accompanied by the fee specified in Schedule 3.
- (3) The Commissioner may give an approval under this section only if the Commissioner is satisfied that the person in relation to whom the application is made is a fit and proper person to operate a money service.
- (4) In determining whether a person is a fit and proper person under subsection (3), the Commissioner must, in addition to any other matter that the Commissioner considers relevant,

have regard to the matters specified in section 30(4)(a), (b), (c), (d) and (e).

- (5) If the Commissioner refuses to give an approval under this section, the Commissioner must inform the licensee by notice in writing.
- (6) A notice under subsection (5) must include—
 - (a) a statement of the reasons for the decision; and
 - (b) a statement that the licensee may apply to the Review Tribunal for a review of the decision.
- (7) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

38. Adding new business premises

- (1) A licensee who is licensed to operate a money service at premises specified in the licence must not operate a money service at any premises other than those specified premises unless the Commissioner has, on an application of the licensee, added the new premises to the licence.
- (2) An application under this section must be made in the form and manner specified by the Commissioner.
- (3) The Commissioner may grant an application under this section on payment of the fee specified in Schedule 3 and may impose any condition that the Commissioner thinks fit.
- (4) The Commissioner may grant an application under this section only if the Commissioner is satisfied that—
 - (a) the premises in respect of which the application is made are suitable to be used for the operation of a money service; and
 - (b) where the premises referred to in paragraph (a) are domestic premises, the licensee has secured the written

consent of every occupant of the premises for any authorized person as defined by section 8 to enter the premises for the purpose of exercising the powers under section 9.

- (5) If the Commissioner refuses to grant an application under this section, the Commissioner must inform the licensee by notice in writing.
- (6) A notice under subsection (5) must include—
 - (a) a statement of the reasons for the decision; and
 - (b) a statement that the licensee may apply to the Review Tribunal for a review of the decision.
- (7) The Commissioner must, as soon as reasonably practicable after granting an application under this section, add the relevant particulars to the register.
- (8) A licensee who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

39. Application to operate at particular premises

- (1) A licensee who is not required under the licence to operate a money service at particular premises must not operate a money service at any particular premises unless the Commissioner has, on an application of the licensee, added the premises to the licence.
- (2) An application under this section must be made in the form and manner specified by the Commissioner.
- (3) The Commissioner may grant an application under this section on payment of the fee specified in Schedule 3 and may impose any condition that the Commissioner thinks fit.
- (4) The Commissioner may grant an application under this section only if the Commissioner is satisfied that—

- (a) the premises in respect of which the application is made are suitable to be used for the operation of a money service; and
 - (b) where the premises referred to in paragraph (a) are domestic premises, the licensee has secured the written consent of every occupant of the premises for any authorized person as defined by section 8 to enter the premises for the purpose of exercising the powers under section 9.
- (5) If the Commissioner refuses to grant an application under this section, the Commissioner must inform the licensee by notice in writing.
- (6) A notice under subsection (5) must include—
- (a) a statement of the reasons for the decision; and
 - (b) a statement that the licensee may apply to the Review Tribunal for a review of the decision.
- (7) The Commissioner must, as soon as reasonably practicable after granting an application under this section, amend the relevant particulars in the register.
- (8) A licensee who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

39A. Licensee's duty to display original of licence

- (1) A licensee who is licensed to operate a money service at premises specified in the licence must display the original of the licence in a conspicuous place at the specified premises.
- (2) A licensee who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5.

40. Licensee's duty to notify Commissioner of changes in particulars

- (1) If there is any change in the particulars that are provided to the Commissioner in connection with a licensee's application under section 30 or 31, the licensee must notify the Commissioner in writing of the change within one month beginning on the date on which the change takes place.
- (2) For the purposes of subsection (1), particulars that are provided in connection with a licensee's application under section 30 or 31 include particulars notified under that subsection.
- (3) The Commissioner must, as soon as reasonably practicable after receiving a notification under subsection (1), amend any relevant particulars in the register if necessary.
- (4) A licensee who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5.

41. Licensee's duty to notify Commissioner of cessation of business

- (1) If a licensee intends to cease to operate a money service or (if applicable) to cease to operate a money service at any of the premises specified in the licence with effect from a particular date (referred to in this section as *date of cessation*), the licensee must—
 - (a) before the date of cessation, notify the Commissioner in writing of that intention and the date of cessation; and
 - (b) return the licence to the Commissioner for cancellation or amendment within 7 days beginning on the date of cessation.
- (2) The Commissioner must, as soon as reasonably practicable after receiving a licence under subsection (1)(b)—

- (a) cancel or amend the licence; and
 - (b) remove the relevant particulars from the register.
- (3) If a licence is returned for cancellation under this section, no licence fee paid in respect of the grant or renewal of the licence is to be refunded.
- (4) A licensee who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5.

42. Licence ceases to be valid on death etc. of licensee

A licence ceases to be valid—

- (a) if the licensee is an individual, on the death of the individual;
- (b) if the licensee is a partnership, on the dissolution of the partnership; or
- (c) if the licensee is a corporation, on the commencement of winding up of the corporation.

Division 3—Commissioner’s Disciplinary and Other Powers

43. Commissioner may take disciplinary actions

- (1) Subject to sections 44 and 45, the Commissioner may exercise any one or more of the powers specified in subsection (2) if a licensee—
- (a) contravenes any regulation made under section 51;
 - (b) contravenes any of the conditions of the licensee’s licence; or
 - (c) contravenes section 35(1), 36(1), 37(1), 38(1), 39(1), 39A(1), 40(1) or 41(1). *(Amended 4 of 2018 s. 17)*
- (2) The specified powers are—

- (a) to publicly reprimand the licensee;
 - (b) to order the licensee to take, by a date specified by the Commissioner, any action specified by the Commissioner for the purpose of remedying the contravention; and
 - (c) to order the licensee to pay a pecuniary penalty not exceeding \$1,000,000.
- (3) A licensee who is ordered to pay a pecuniary penalty under this section must pay the penalty within—
- (a) 30 days; or
 - (b) any longer period that the Commissioner may specify by notice under section 44(2),
- after the order has taken effect as a specified decision under section 75.
- (4) If a licensee fails to comply with an order to take remedial action made under subsection (1), the Commissioner may further order the licensee to pay a daily pecuniary penalty not exceeding \$10,000 for each day on which the failure continues after the date specified in the order as being the date by which the remedial action must be taken.
- (5) The Court of First Instance may, on an application of the Commissioner made in the manner specified in subsection (6), register an order to pay a pecuniary penalty made under subsection (1) or (4) in the Court of First Instance and the order is, on registration, to be regarded for all purposes as an order of the Court of First Instance made within the civil jurisdiction of the Court of First Instance for the payment of money.
- (6) For the purpose of making an application under subsection (5), the Commissioner must produce to the Registrar of the High Court a notice in writing requesting that the order be registered, together with the original and a copy of the order.

- (7) If the Commissioner has exercised his or her powers under subsection (1) in respect of a licensee, the Commissioner may disclose to the public details of the decision, the reasons for which the decision was made, and any material facts relating to the case.

44. Procedural requirements in respect of exercise of powers under section 43

- (1) The Commissioner may only exercise the powers under section 43 in respect of a licensee after giving the licensee a reasonable opportunity to be heard.
- (2) If the Commissioner exercises a power under section 43 in respect of a licensee, the Commissioner must inform the licensee of the decision by notice in writing.
- (3) A notice under subsection (2) must include—
- (a) a statement of the reasons for the decision;
 - (b) in so far as applicable, the terms in which the licensee is reprimanded under the decision;
 - (c) in so far as applicable, the action that the licensee is required to take under the decision;
 - (d) in so far as applicable, the amount of any pecuniary penalty imposed under the decision and, if the penalty is to be paid at a time other than that specified in section 43(3)(a), the time within which it is required to be paid; and
 - (e) a statement that the licensee may apply to the Review Tribunal for a review of the decision.

45. Guidelines on how Commissioner exercises power to impose pecuniary penalty

- (1) The Commissioner must, before he or she first exercises the

power to impose a pecuniary penalty referred to in section 43(2)(c), publish in the Gazette and in any other manner that the Commissioner considers appropriate, guidelines to indicate the manner in which the Commissioner proposes to exercise that power.

- (2) In exercising the power to impose a pecuniary penalty referred to in section 43(2)(c), the Commissioner must have regard to the guidelines published under subsection (1).
- (3) Guidelines published under subsection (1) are not subsidiary legislation.

46. Commissioner may appoint authorized officers

The Commissioner may appoint in writing any public officer employed in the Customs and Excise Department to be an authorized officer for the purposes of this Part.

47. Warrant to enter premises to remove evidence of commission of offence

- (1) If a magistrate is satisfied by information on oath that there are reasonable grounds to suspect that an offence under section 29 has been committed or is being committed on any premises, the magistrate may issue a warrant authorizing an authorized officer to—
 - (a) enter and search the premises; and
 - (b) seize, remove or detain—
 - (i) any record or document, or any cash or other article, found on the premises that is, or appears to the authorized officer to be, or to contain, or to be likely to be or to contain, evidence of the commission of the suspected offence; and

- (ii) anything that the authorized officer has reasonable cause to believe may be required as evidence in proceedings for the suspected offence.
- (2) An authorized officer authorized under subsection (1) may—
- (a) call on any person to assist the officer in entering and searching the premises that the officer is empowered to enter and search under that subsection;
 - (b) break into and forcibly enter the premises;
 - (c) remove by force any person or thing obstructing the officer in the exercise of those powers;
 - (d) detain any person found on the premises who appears to the officer to be, or to be likely to be, able to give information relevant to the investigation of the suspected offence until the premises have been searched;
 - (e) if any information or matter contained in a record or document found on the premises is recorded otherwise than in a legible form but is capable of being reproduced in a legible form, require any person—
 - (i) who appears to the officer to be in charge of the premises; or
 - (ii) who appears to the officer to be, or to be likely to be, able to produce a reproduction of the recording of the information or matter,
to produce a reproduction of the recording of the information or matter, or the relevant part of the recording, in a legible form; and
 - (f) if any information or matter contained in a record or document found on the premises is recorded in an information system, require any person—
 - (i) who appears to the officer to be in charge of the premises; or

- (ii) who appears to the officer to be, or to be likely to be, able to produce a reproduction of the recording of the information or matter,
- to produce a reproduction of the recording of the information or matter, or the relevant part of the recording, in a form that enables the information or matter to be reproduced in a legible form.
- (3) An authorized officer who enters any premises under this section must, if required, produce the warrant for inspection.
- (4) A person who obstructs an authorized officer exercising a power conferred by a warrant or by subsection (2) commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

48. Authorized officer's power to arrest and search, etc.

- (1) An authorized officer may, without a warrant, arrest a person or detain a person for further enquiries if the authorized officer has reasonable grounds to suspect that the person has committed or is committing an offence under section 29.
(Amended 15 of 2022 s. 23)
- (2) An authorized officer who arrests or detains a person under this section must, if requested, produce evidence of his or her appointment as an authorized officer.
- (3) An authorized officer who arrests a person under this section must immediately take the person to a police station or, if in the opinion of the authorized officer further enquiries are necessary, first to an office of the Customs and Excise Department and then to a police station, there to be dealt with in accordance with the Police Force Ordinance (Cap. 232).
- (4) A person, whether arrested or not, must not be detained for more than 48 hours without being charged and brought before a magistrate.

- (5) If a person forcibly resists or attempts to evade arrest or detention under this section, the authorized officer may use any force that is reasonably necessary to effect the arrest or detention.
- (6) If an authorized officer has arrested a person under this section, the officer may—
 - (a) search the person, or the place at which the person has been arrested and its surrounding areas, for anything that may be related to the suspected offence; and
 - (b) take possession of anything found as a result of the exercise of the power under paragraph (a) that the authorized officer has reasonable grounds to suspect is related to the suspected offence.
- (7) A person may be searched only by an authorized officer of the same sex.

Division 4—Miscellaneous

49. *(Repealed 15 of 2022 s. 24)*

50. Amendment of Schedule 3

The Commissioner may, by notice published in the Gazette, amend Schedule 3.

51. Regulations

The Commissioner of Customs and Excise may make regulations for the better carrying out of the provisions and purposes of this Part.

52. Offence to provide false information in connection with application for licence etc.

- (1) A person commits an offence if the person, in connection with

- an application for the grant or renewal of a licence—
- (a) makes a statement that is false or misleading in a material particular; and
 - (b) knows that, or is reckless as to whether, the statement is false or misleading in a material particular.
- (2) A person commits an offence if the person, in connection with an application for the grant or renewal of a licence—
- (a) omits a material particular from a statement with the result that the statement is rendered false or misleading; and
 - (b) knows that, or is reckless as to whether, the material particular is omitted from the statement.
- (3) A person who commits an offence under subsection (1) or (2) is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

53. Time limit for prosecution

Despite section 26 of the Magistrates Ordinance (Cap. 227), proceedings may be instituted for an offence, other than an indictable offence, under this Part within 12 months after the offence is discovered by, or comes to the notice of, the Commissioner.

Part 5A

Regulation of Trust or Company Service Providers

(*Part 5A added 4 of 2018 s. 18*)

Division 1—Preliminary

Subdivision 1—Interpretation and Disapplication of this Part

53A. Interpretation of Part 5A

In this Part—

disciplinary power (紀律處分權力) means a power that may be exercised by the Registrar under section 53Z;

licence (牌照) means a licence—

- (a) granted under section 53G; or
- (b) renewed under section 53K,

and, except in Subdivisions 2 and 3 of Division 2, includes a licence deemed to have been granted under section 53ZQ;

licensee (持牌人) means a person who holds a licence—

- (a) granted under section 53G; or
- (b) renewed under section 53K,

and, except in Subdivision 2 and Subdivisions 2 and 3 of Division 2, includes a deemed licensee as defined by section 53ZQ(5);

register (登記冊) means the register maintained under section 53D;

ultimate owner (最終擁有人)—

- (a) in relation to an individual—

- (i) means another individual who ultimately owns or controls the trust or company service business of the first-mentioned individual; or
 - (ii) if the first-mentioned individual is acting on behalf of another person, means the other person;
- (b) in relation to a partnership, means an individual who—
- (i) is entitled, directly or indirectly, to more than a 25% share of the capital or profits of the partnership;
 - (ii) controls, directly or indirectly, more than a 25% share of the capital or profits of the partnership;
 - (iii) is, directly or indirectly, entitled to exercise or control the exercise of more than 25% of the voting rights in the partnership; or
 - (iv) exercises ultimate control over the management of the partnership; and
- (c) in relation to a corporation, means an individual who—
- (i) 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;
 - (ii) 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
 - (iii) exercises ultimate control over the management of the corporation.

(Amended 15 of 2022 s. 25)

53B. Disapplication

- (1) This Part does not apply to—
- (a) the Government;

- (b) an authorized institution;
 - (c) a licensed corporation that operates a trust or company service business that is ancillary to the corporation's principal business;
 - (d) an accounting professional;
 - (e) a legal professional; or
 - (f) a person of a class or description prescribed under subsection (2).
- (2) The Secretary for Financial Services and the Treasury may by regulation prescribe a class or description of persons to whom this Part does not apply.

Subdivision 2—Delegation by Registrar of Companies and Register of Licensees

53C. Delegation of functions

- (1) The Registrar of Companies may in writing delegate any of his or her functions under this Ordinance to a public officer employed in the Companies Registry.
- (2) However, the Registrar of Companies must not delegate—
 - (a) the power to delegate under subsection (1); or
 - (b) the power—
 - (i) to amend Schedule 3A under section 53ZL; or
 - (ii) to make regulations under section 53ZM.

53D. Registrar to maintain register of licensees

- (1) The Registrar must maintain a register of licensees, in a form the Registrar considers appropriate, containing—
 - (a) the name of every licensee; and
 - (b) for—

- (i) an individual carrying on business as a sole proprietor—the business address of the sole proprietor;
 - (ii) a partnership—the business address of the partnership; or
 - (iii) a corporation—the business address of the corporation.
- (2) The register must be made available for inspection by any member of the public for the purpose of ascertaining whether a person is a licensee.
- (3) A member of the public is entitled, without charge, to inspect the register during normal office hours.

53E. Certified copies and their evidential value

- (1) A person may, on the payment of the fee specified in Schedule 3A, obtain—
 - (a) a certified copy of—
 - (i) an entry in the register; or
 - (ii) an extract from the register; or
 - (b) a certificate by the Registrar stating that the name of a person—
 - (i) has been entered in the register;
 - (ii) has not been entered in the register;
 - (iii) has been removed from the register; or
 - (iv) has not been removed from the register.
- (2) In a civil or criminal proceeding, a copy of an entry in or extract from the register purporting to be certified by the Registrar—

- (a) is admissible in evidence on production without further proof; and
 - (b) is evidence of the facts stated in it.
- (3) The fact that the name of a person does not appear on a copy of an entry in or extract from the register purporting to be certified by the Registrar is evidence that, at the date on which the copy is purported to be certified, the person was not a licensee.
 - (4) In a civil or criminal proceeding, a certificate purporting to be signed by the Registrar stating that the name of a person has been entered in or removed from the register, or has not been entered in or removed from the register, is conclusive evidence of the facts stated in it.

Division 2—Licensing of Trust or Company Service Providers

Subdivision 1—Restriction on Carrying on Trust or Company Service Business

53F. Offence of carrying on trust or company service business without licence

- (1) A person commits an offence if the person carries on a trust or company service business without a licence.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 6 and to imprisonment for 6 months.
- (3) If a person is convicted of an offence under this section, the magistrate may order that the person be disqualified from holding a licence for a period—
 - (a) beginning on the date of the order; and

- (b) specified in the order.

Subdivision 2—Application for, Grant and Renewal of, Licence

53G. Application for and grant of licence

- (1) The Registrar may, on application, grant, in accordance with this Subdivision, a licence to carry on a trust or company service business to—
 - (a) an individual carrying on business as a sole proprietor;
 - (b) a partnership; or
 - (c) a corporation.
- (2) The application—
 - (a) must be made in the form and way specified by the Registrar; and
 - (b) must be accompanied by—
 - (i) a copy of a valid business registration certificate; and
 - (ii) the fee specified in Schedule 3A.

53H. Licence granted only if fit and proper test satisfied

- (1) If the applicant is an individual carrying on business as a sole proprietor, a licence may be granted only if the Registrar is satisfied that—
 - (a) the individual is a fit and proper person to carry on a trust or company service business; and
 - (b) if there is an ultimate owner in relation to the individual, the ultimate owner is a fit and proper person to be associated with a trust or company service business.
- (2) If the applicant is a partnership, a licence may be granted only if the Registrar is satisfied that—

- (a) each partner in the partnership is a fit and proper person to carry on a trust or company service business; and
 - (b) if there is an ultimate owner in relation to the partnership, the ultimate owner is a fit and proper person to be associated with a trust or company service business.
- (3) If the applicant is a corporation, a licence may be granted only if the Registrar is satisfied that—
- (a) each director of the corporation is a fit and proper person to be associated with a trust or company service business; and
 - (b) if there is an ultimate owner in relation to the corporation, the ultimate owner is a fit and proper person to be associated with a trust or company service business.
- (4) If the Registrar decides not to grant a licence, the Registrar must inform the applicant of the decision by notice in writing.
- (5) The notice must include—
- (a) a statement of the reasons for the decision; and
 - (b) a statement that the applicant may apply to the Review Tribunal for a review of the decision.

53I. Fit and proper test

In determining whether a person is a fit and proper person for the purposes of section 53H, the Registrar must, in addition to any other matter that the Registrar considers relevant, have regard to the following matters—

- (a) whether the person has been convicted of—
 - (i) an offence under section 5(5), (6), (7) or (8), 10(1), (3), (5), (6), (7) or (8), 13(1), (3), (5), (6), (7) or (8), 17(9), 20(1), 61(2) or 66(3);

- (ii) an offence under section 14 of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575);
 - (iii) an offence under section 25(1), 25A(5) or (7) of, or an offence specified in Schedule 1 to, the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405); or
 - (iv) an offence under section 25(1), 25A(5) or (7) of, or an offence specified in Schedule 1 or 2 to, the Organized and Serious Crimes Ordinance (Cap. 455);
- (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) 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 this Ordinance or a regulation made under section 53ZM;
- (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.

53J. Conditions when granting licence

- (1) On granting a licence, the Registrar may impose any condition that the Registrar considers appropriate.
- (2) If a condition is imposed, the Registrar must, at the time the licence is granted, inform the licensee by notice in writing.
- (3) The notice must include—
 - (a) a statement of the reasons for the decision under subsection (1); and
 - (b) a statement that the licensee may apply to the Review Tribunal for a review of the decision.
- (4) A condition takes effect at the time the licensee receives the notice or at the time specified in the notice, whichever is later.

53K. Renewal of licence

- (1) A licensee may apply to the Registrar for the renewal of a licence.
- (2) The application—
 - (a) must be made at least 60 days before the licence is due to expire;
 - (b) must be made in the form and way specified by the Registrar; and
 - (c) must be accompanied by the fee specified in Schedule 3A.
- (3) Sections 53H(1), (2) and (3) and 53I apply to an application for renewal as they apply to an application for the grant of a licence.
- (4) If the licence expires before the determination of the application, unless the application is withdrawn or the licence is revoked or suspended, the licence remains in force—

- (a) until it is renewed; or
 - (b) if it is not renewed, until the decision not to renew takes effect as a specified decision under section 75.
- (5) If the Registrar decides not to renew the licence, the Registrar must inform the licensee of the decision by notice in writing.
- (6) The notice must include—
- (a) a statement of the reasons for the decision; and
 - (b) a statement that the licensee may apply to the Review Tribunal for a review of the decision.
- (7) A renewal takes effect—
- (a) on the day following the expiry of the licence; or
 - (b) if subsection (4) applies, on the day following the day on which the licence would have expired but for that subsection.

53L. Conditions when renewing licence

- (1) On renewing a licence, the Registrar may, if the Registrar considers appropriate—
- (a) impose a new condition;
 - (b) amend a previously imposed condition; or
 - (c) remove a previously imposed condition.
- (2) If a new condition is imposed or a condition is amended or removed, the Registrar must, at the time the licence is renewed, inform the licensee by notice in writing.
- (3) The notice must include—
- (a) a statement of the reasons for a decision under subsection (1)(a) or (b); and
 - (b) a statement that the licensee may apply to the Review Tribunal for a review of the decision.

- (4) The imposition, amendment or removal of a condition takes effect at the time the licensee receives the notice or at the time specified in the notice, whichever is later.

53M. Amendment of conditions of licence

- (1) The Registrar may, if satisfied that it is reasonable to do so in the circumstances, in relation to a licence—
- (a) impose a new condition;
 - (b) amend a previously imposed condition; or
 - (c) remove a previously imposed condition.
- (2) If a new condition is imposed or a condition is amended or removed, the Registrar must inform the licensee by notice in writing.
- (3) The notice must include—
- (a) a statement of the reasons for a decision under subsection (1)(a) or (b); and
 - (b) a statement that the licensee may apply to the Review Tribunal for a review of the decision.
- (4) The imposition, amendment or removal of a condition takes effect at the time the licensee receives the notice or at the time specified in the notice, whichever is later.

Subdivision 3—Form and Validity Period of Licence

53N. Form of licence

- (1) A licence is to be in a form specified by the Registrar.
- (2) The licence must specify—
- (a) the period for which the licence is valid; and
 - (b) if the licensee—

- (i) is an individual carrying on business as a sole proprietor—the business address of the sole proprietor;
- (ii) is a partnership—the business address of the partnership; or
- (iii) is a corporation—the business address of the corporation.

53O. Validity period of licence

- (1) A licence that is granted under section 53G is valid for—
 - (a) 3 years beginning on the date on which the licence is granted; or
 - (b) if the Registrar considers it appropriate in a particular case, a shorter period—
 - (i) determined by the Registrar; and
 - (ii) beginning on the date on which the licence is granted.
- (2) A licence that is renewed under section 53K is valid for—
 - (a) 3 years beginning on the date on which the licence is renewed; or
 - (b) if the Registrar considers it appropriate in a particular case, a shorter period—
 - (i) determined by the Registrar; and
 - (ii) beginning on the date on which the licence is renewed.

53P. Cessation of validity when certain events happen

A licence ceases to be valid—

- (a) if the licensee is an individual carrying on business as a sole proprietor—on the death of the individual;

- (b) if the licensee is a partnership—on the dissolution of the partnership; or
- (c) if the licensee is a corporation—on the commencement of the winding up of the corporation.

Subdivision 4—Revocation or Suspension of Licence

53Q. When licence may be revoked or suspended

- (1) The Registrar may, in a situation specified in subsection (2)—
 - (a) revoke a licensee's licence; or
 - (b) suspend a licensee's licence—
 - (i) for a period specified by the Registrar; or
 - (ii) until the occurrence of an event specified by the Registrar.
- (2) The situations are—
 - (a) where the licensee is an individual carrying on business as a sole proprietor, the Registrar is no longer satisfied that—
 - (i) the individual is a fit and proper person to carry on a trust or company service business; or
 - (ii) if there is an ultimate owner in relation to the individual, the ultimate owner is a fit and proper person to be associated with a trust or company service business;
 - (b) where the licensee is a partnership, the Registrar is no longer satisfied that—
 - (i) a partner in the partnership is a fit and proper person to carry on a trust or company service business; or

- (ii) if there is an ultimate owner in relation to the partnership, the ultimate owner is a fit and proper person to be associated with a trust or company service business; or
- (c) where the licensee is a corporation, the Registrar is no longer satisfied that—
 - (i) a director of the corporation is a fit and proper person to be associated with a trust or company service business; or
 - (ii) if there is an ultimate owner in relation to the corporation, the ultimate owner is a fit and proper person to be associated with a trust or company service business.

53R. Procedure for revoking or suspending licence

- (1) If the Registrar decides to exercise a power under section 53Q(1), the Registrar must inform the licensee of the decision by notice in writing.
- (2) The notice must—
 - (a) include a statement of the reasons for the decision;
 - (b) for a decision to suspend a licence, specify the duration and terms of the suspension; and
 - (c) include a statement that the licensee may apply to the Review Tribunal for a review of the decision.
- (3) The Registrar may exercise the power only after giving the licensee a reasonable opportunity to be heard.
- (4) A revocation or suspension takes effect at the time specified in the notice.
- (5) Any fee paid for the grant or renewal of a licence is not refundable on the revocation or suspension of the licence.

Division 3—Approvals by Registrar

53S. Approval required to become ultimate owner of licensee

- (1) A person must not become an ultimate owner of a licensee unless the Registrar gives approval in writing.
- (2) The Registrar may give approval only if—
 - (a) the licensee makes an application for the approval; and
 - (b) the Registrar is satisfied that the person is a fit and proper person to be associated with a trust or company service business.
- (3) In determining whether a person is a fit and proper person, the Registrar must, in addition to any other matter that the Registrar considers relevant, have regard to the matters specified in section 53I.
- (4) If the Registrar decides not to give approval, the Registrar must inform the licensee of the decision by notice in writing.
- (5) The notice must include—
 - (a) a statement of the reasons for the decision; and
 - (b) a statement that the licensee may apply to the Review Tribunal for a review of the decision.
- (6) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

53T. Approval required to become partner of licensee

- (1) A person must not become a partner of a licensee that is a partnership unless the Registrar gives approval in writing.
- (2) The Registrar may give approval only if—
 - (a) the licensee makes an application for the approval; and

- (b) the Registrar is satisfied that the person is a fit and proper person to carry on a trust or company service business.
- (3) In determining whether a person is a fit and proper person, the Registrar must, in addition to any other matter that the Registrar considers relevant, have regard to the matters specified in section 53I.
- (4) If the Registrar decides not to give approval, the Registrar must inform the licensee of the decision by notice in writing.
- (5) The notice must include—
 - (a) a statement of the reasons for the decision; and
 - (b) a statement that the licensee may apply to the Review Tribunal for a review of the decision.
- (6) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

53U. Approval required to become director of licensee

- (1) A person must not become a director of a licensee that is a corporation unless the Registrar gives approval in writing.
- (2) The Registrar may give approval only if—
 - (a) the licensee makes an application for the approval; and
 - (b) the Registrar is satisfied that the person is a fit and proper person to be associated with a trust or company service business.
- (3) In determining whether a person is a fit and proper person, the Registrar must, in addition to any other matter that the Registrar considers relevant, have regard to the matters specified in section 53I.

- (4) If the Registrar decides not to give approval, the Registrar must inform the licensee of the decision by notice in writing.
- (5) The notice must include—
 - (a) a statement of the reasons for the decision; and
 - (b) a statement that the licensee may apply to the Review Tribunal for a review of the decision.
- (6) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

53V. How to apply for approval

An application under this Division—

- (a) must be made in the form and way specified by the Registrar; and
- (b) must be accompanied by the fee specified in Schedule 3A.

Division 4—Notifications to Registrar

53W. Notification of changes in particulars

- (1) If there is a change in the particulars previously provided to the Registrar in connection with a licensee's application for the grant or renewal of a licence, the licensee must notify the Registrar of the change within 1 month beginning on the date on which the change takes place.
- (2) For the purposes of subsection (1), particulars previously provided in connection with an application for the grant or renewal of a licence include particulars notified under that subsection.

- (3) The Registrar must, as soon as reasonably practicable after receiving the notification, amend any relevant particulars in the register if necessary.
- (4) A licensee who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5.

53X. Notification of cessation of business

- (1) If a licensee intends to cease to carry on the licensee's trust or company service business, the licensee must, before the intended date of cessation, notify the Registrar—
 - (a) of that intention; and
 - (b) of the intended date of cessation.
- (2) The Registrar must, as soon as reasonably practicable after receiving the notification, cancel the licence with effect from the intended date of cessation.
- (3) Any fee paid for the grant or renewal of a licence is not refundable on the cancellation of the licence.
- (4) A licensee who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5.

53Y. How to give notifications

A notification under this Division must be given—

- (a) in the form specified by the Registrar; and
- (b) in the way specified by the Registrar.

Division 5—Registrar's Disciplinary Powers

53Z. Disciplinary action by Registrar

- (1) Subject to sections 53ZA and 53ZB, the Registrar may, in a

situation specified in subsection (2), exercise, in respect of a licensee, one or more of the powers specified in subsection (3).

- (2) The situations are that—
 - (a) the licensee contravenes—
 - (i) a requirement set out in Schedule 2 that applies to a DNFBP who is a TCSP licensee;
 - (ii) a regulation made under section 53ZM; or
 - (iii) a condition of the licence; or
 - (b) there is a contravention of section 53S(1), 53T(1), 53U(1), 53W(1) or 53X(1).
- (3) The powers are—
 - (a) to publicly reprimand the licensee;
 - (b) to 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
 - (c) to order the licensee to pay a pecuniary penalty not exceeding \$500,000.
- (4) If a licensee fails to comply with an order to take remedial action, the Registrar may further order the licensee to pay a daily pecuniary penalty not exceeding \$10,000 for each day on which the failure continues after the compliance date.
- (5) A licensee who is ordered to pay a pecuniary penalty must pay it to the Registrar within—
 - (a) 30 days; or
 - (b) a longer period specified in the notice referred to in section 53ZA(1),
after the order takes effect as a specified decision under section 75.

- (6) After a decision to exercise a disciplinary power takes effect as a specified decision under section 75, the Registrar may disclose to the public—
- (a) details of the decision;
 - (b) the reasons for which the decision was made; and
 - (c) any material facts relating to the case.
- (7) In this section—

compliance date (須予遵從日期) means the date specified in an order made under subsection (3)(b) as the date by which the remedial action must be taken;

remedial action (糾正行動) means an action ordered to be taken under subsection (3)(b).

53ZA. Procedure for exercising disciplinary powers

- (1) If the Registrar decides to exercise a disciplinary power in respect of a licensee, the Registrar must inform the licensee of the decision by notice in writing.
- (2) The notice must—
- (a) include a statement of the reasons for the decision;
 - (b) specify any action that the licensee is required to take under the decision;
 - (c) for a decision to publicly reprimand, specify the terms in which the licensee is to be reprimanded;
 - (d) for a decision to impose a pecuniary penalty—
 - (i) specify the amount of the penalty; and
 - (ii) if the penalty is to be paid within a period other than that referred to in section 53Z(5)(a), specify that other period within which it must be paid; and