

SFC consults on proposed enhancements to competency framework for intermediaries and individual practitioners



On 11 December 2020, the SFC launched a consultation on proposals to enhance the competency framework for intermediaries and individual practitioners. Amendments have been proposed to amend two sets of guidelines, namely the Guidelines on Competence (the "**Competence Guidelines**") and the Guidelines on Continuous Professional Training (the "**CPT Guidelines**").

The Competence Guidelines and the CPT Guidelines were published in 2003. Since then, there have been substantial changes to the regulatory landscape and financial markets, such as the addition of the type 10 (*providing credit rating services*) regulated activity ("**RA**"), enhancement of the sponsor regime, introduction of certain rules on over-the-counter (OTC) derivatives and the regulatory framework for virtual asset-related businesses. Local and overseas regulators have recently updated their competence standards as well, e.g. the Insurance Authority, the Hong Kong Monetary Authority and the Monetary Authority of Singapore.

To bring the SFC's competency framework up to date in view of the changing regulatory landscape and financial markets, as well as the development of new financial products, the SFC saw the need to enhance its competency framework for intermediaries and individual practitioners and launched a consultation on this until 10 February 2021. To maintain a level playing field, "executive officers" ("**EOs**")¹ and "relevant individuals" ("**ReIs**")² will be required to meet the same competency and CPT requirements.

The proposed amendments to the Competence Guidelines include (among others):

- raising the minimum academic qualification requirements for individuals³ and broadening the scope of recognised academic qualifications to cover degrees in other disciplines;
- introducing a full exemption from obtaining recognized industry qualifications (RIQs) for temporary licence applicants;
- refining the applicability of the conditional exemption from passing the local regulatory framework papers ("**LRPs**") under paragraph (8) of Appendix E to the 2003 version of the Competence Guidelines for licensed representatives ("**LRs**")⁴;
- elaborating on the relevant industry experience requirements such that the SFC may take into consideration, on a case-by-case basis, relevant industry experience accumulated by individuals over their careers;

¹ "Executive officer" means an individual who has been given consent by the HKMA to act as an executive officer of a registered institution under section 71C (*Executive officers of registered institutions require Monetary Authority's consent*) of the Banking Ordinance (Cap. 155).

² "Relevant individual" means an individual whose name is entered in the register maintained by the HKMA under section 20 (*Register of authorised institutions, etc.*) of the Banking Ordinance (Cap. 155).

³ The minimum academic qualification requirements will be raised to the attainment of Level 2 in either English or Chinese as well as in Mathematics in HKDSE or equivalent.

⁴ The conditional exemption will apply to LRs who have (a) never attempted any LRPs but are still required to satisfy the LRP requirements of the new RA; or (b) have passed 1 LRP but are still required to pass another LRP to satisfy the LRP requirement of the new RA. These individuals can complete an additional 5 CPT hours in regulatory knowledge in the new RA in lieu of passing the LRP for that new RA.

- confining management experience requirements for responsible officers ("**ROs**") such that only experience in supervising and managing essential regulated functions or projects in a business setting would count (as "management experience"); and
- enhancing the competence requirements for individuals who intend to advise on matters in relation to the Codes on Takeovers and Mergers and Share Buy-backs (the "**Takeovers Code**").

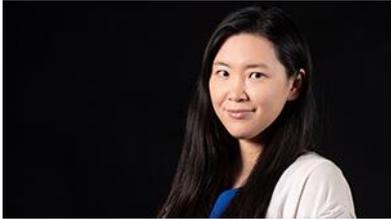
The proposed amendments to the CPT Guidelines include (among others):

- simplifying the basis for the determination of the CPT obligations such that each individual practitioner will be required to complete a fixed number of CPT hours per annum, regardless of the number or type of RAs that he or she is licensed for⁵;
- specifying 10 CPT hours per annum as the minimum requirement for LRs and Rels, and 12 CPT hours for ROs and EOs (note that the 2 additional CPT hours required of ROs and EOs must cover topics relating to regulatory compliance);
- out of the required 10 or 12 CPT hours, requiring that each individual practitioner attends at least 5 CPT hours per annum on topics directly relevant to his or her RAs;
- out of those 5 hours of RA-related CPT mentioned above, requiring individual practitioners engaging in sponsor work of a corporation to take at least 2.5 hours of sponsor-related CPT per annum, and those engaging in transactions related to the Takeovers Codes to take at least 2.5 hours of Takeovers Code-related CPT per annum;
- out of the required 10 or 12 CPT hours, requiring each individual practitioner to complete at least 2 CPT hours on topics relating to ethics or compliance (note that these 2 CPT hours for ROs and EOs are independent of the 2 CPT hours on regulatory compliance topics that they must complete);
- requiring each new individual practitioner in HK (excluding temporary licensees) to complete 2 CPT hours on topics relating to ethics within 12 months of obtaining a licence as a one-off requirement; and
- updating the list of topics relevant for CPT purposes in light of market developments.

The SFC proposes to implement the revised Competence Guidelines and CPT Guidelines at least 6 months after their publication and in any event no earlier than 31 December 2021. There will therefore still be some time for intermediaries to update their employee handbooks or guidelines to reflect this.

⁵ Currently, the number CPT hours that an individual practitioner needs to complete per annum depends on which "RA competence group(s)" such individual belongs to.

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