

Competence

Which exams does a new entrant need to take in order to be licensed?

Updated on
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2.1 Please refer to Appendix C of the Guidelines on Competence. Table 1 lists all the recognized qualifications for responsible officers, and Table 2 lists those applicable to representatives.

For a person who has been licensed before and re-applies within 3 years from the date of expiry or revocation of his last licence, does he have to take any exams in order to be licensed again?

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2.2 Normally, this person does not have to take any exams if he intends to engage in regulated activities with the same competence requirements as indicated in the table below and in the same role (i.e. licensed representative or responsible officer) as previously licensed. There is no exam requirement for Type 7 regulated activity.

Groups of regulated activities with the same competence requirements
Type of regulated activities
1 – dealing in securities 4 – advising on securities 8 – securities margin financing
2 – dealing in futures contracts 5 – advising on futures contracts

However, the SFC reserves the right to require such persons to take the examination(s) where appropriate.

Which exam does a new entrant have to take if he applies for a representative licence to carry on Type 3 (leveraged foreign exchange trading) regulated activity?

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2.3 He is required to take the Leveraged Foreign Exchange Trader's Representative Examination conducted by the Institute of Professional Education And Knowledge of the Vocational Training Council. However, he may apply for exemption from the recognized industry qualification and/or local regulatory framework paper if he satisfies the exemption criteria as set out in Appendices D and/or E of the Guidelines on Competence.

Has the HKSI developed any revision tools to assist candidates to prepare for its Licensing Exam?

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2.4 Yes, a list of these tools have been developed. Please visit the HKSI's website at http://www.hksi.org/eng/exam/le_prep.html for details.

My company is involved in corporate finance work. Do I need to satisfy any extra competence requirements if I want to advise on matters falling within the ambit of the Hong Kong Codes on Takeovers and Mergers and Share Repurchases ("Codes")?

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2.5 Yes, section 1.7 of the Codes provides that financial and other professional advisers must have the competence, professional expertise and adequate resources to fulfil their role and to discharge their responsibility under the Codes. If the Executive (as defined under the Codes) considers that a financial adviser is not able to meet these requirements, he may not allow the financial adviser to act in that capacity even if there is no specific restriction stated on the licence. In order to demonstrate your competence in Codes-related matters, you will be required to complete Supplement 11 (i.e. Activities in Connection with Matters Regulated by the Hong Kong Codes on Takeovers and Mergers and Share Repurchases) and provide any other supporting documents as required by SFC staff. Generally speaking, the person must satisfy the SFC that he has the experience of supervising at least one complete transaction under the Codes or the London Takeover Code.

Since registered institutions have a legal obligation to ensure that their relevant individuals meet the requirements set out in the Guidelines on Competence, can specific guidance be provided on the practical interpretation?

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2.6 For an executive officer of a registered institution (“RI”), the Hong Kong Monetary Authority (“HKMA”) will adopt the same requirements and procedures laid down by the SFC for a responsible officer of a licensed corporation.

In respect of other relevant individuals, the RI concerned has to ensure that they comply with the corresponding requirements for licensed representatives, and maintain sufficient records (with supporting documents, where applicable) on how these requirements are satisfied and make these records available for inspection upon request from the HKMA.

RIs should also refer to the **Supervisor’s Memo column in the June 2003 issue of the HKMA Quarterly Bulletin, which is available on the HKMA public website at www.info.gov.hk/hkma/eng/public/qb_index.htm for detailed guidance on the practical interpretation.**

Clarification on some important points is given below:

(a) Paragraphs 7.4 to 7.6 of the Guidelines -- Exemptions from the Recognized Industry

Qualification and Local Regulatory Framework

Paper Requirements

RIs should ensure that a relevant individual does not enjoy any exemption unless this is in line with the criteria set out in Appendices D and E of the Guidelines.

(b) Appendices D and E of the Guidelines – (I) Full Exemption

For the purposes of Item (2) of both Appendices, “relevant individual” (whether an executive officer or not) also includes an individual who has benefited from the “grandfather” arrangements as prescribed in section 4.2 of the HKMA Supervisory Policy Manual module SB-1 “Supervision of Regulated Activities of SFC-Registered Authorized Institutions”.

(c) Appendices D and E of the Guidelines – (II) Conditional Exemption

The relevant RI should ensure that the conditions specified in Appendix D or E (whichever is applicable) have been fully satisfied before allowing an individual to be exempt from the

recognized industry qualification or the local regulatory framework paper requirement. This includes ensuring that the individual completes 5 additional CPT hours in an appropriate area, either within the preceding 6 months or within 12 months after the exemption.

I have been involved in compliance work for many years. Can I be exempted from the local regulatory framework examination requirement in order to be licensed?

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2.7 Yes, the Commission may consider granting you the exemption if you have been actively involved in regulatory or compliance work:

- in Hong Kong;
- on a full-time basis;
- for over 3 years in the past 6 years; and
- in the same regulated activity as the licence you apply for.

However, your licence may still be subject to such condition(s) as the SFC considers appropriate.

I have been a Responsible Officer carrying on Type 1 regulated activity for many years, and now I would like to be the Responsible Officer to carry on Type 2 regulated activity. Can I be exempted from the local regulatory framework examination requirement?

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2.8 If you have 5 years' local industry experience over the past 8 years and now apply for approval to engage in a regulated activity that requires you to satisfy a different set of competence requirements, you may apply for conditional exemption from taking the local regulatory framework paper provided your sponsoring corporation will only be carrying on a limited scope of business activities (e.g. acting as an introducing broker). Serving professional investor clients only is unlikely to be regarded as constituting a limited scope of business activities. In the event of the SFC granting such an exemption, it might well decide to impose restrictions on the scope of activities to be undertaken by you, together with other conditions where necessary. Also, the exemption will be subject to completion of additional CPT hours.

According to item 6 of the exemption criteria as set out in Appendix E of the Guidelines on Competence, an individual may apply for conditional exemption from taking the local regulatory framework paper if he satisfies, among other things, the condition that he will only be involved in a limited scope of activities. To what extent will my activities be considered as "limited scope"?

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2.9 The following will generally be regarded as "limited scope of activities":

- The applicant only engages in certain restricted activities within the sponsoring corporation;
- The applicant assumes a very senior management level role and is not involved in the day-to-day operations; or
- The sponsoring corporation is only carrying on a limited scope of business activities.

Examples of applicants' involvement in "limited scope of activities" include:

- (a) Regional Research Head coming to Hong Kong occasionally and is accompanied by other local licensed staff in client meetings, or
- (b) Persons only providing technical advice to clients on the structuring of corporate finance deals.

The above examples are not intended to be exhaustive.

Are there any exemptions from the competence examinations requirement for former practitioners applying for a licence to re-enter the industry?

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2.10 Please refer to Question 2.2 above. For former practitioners who have left the industry for between 3 and 8 years, they may be exempted from the relevant competence examinations (including both industry qualification and local regulatory framework papers) when they re-apply for a licence or seek to be re-engaged by a registered institution as a relevant individual. This exemption is only available where the applicants apply to practise in the same regulated activity (or an activity having the same competence requirements) and role as before. To be eligible for the exemption, applicants must, in addition to the applicable industry and management experience requirements, also meet at least one of the following requirements:

- Completion of five Continuous Professional Training (CPT) hours for each year of absence from the industry. Regulatory training must make up at least 50% of the CPT activities;
- Attendance at a specialised course conducted by the Hong Kong Securities Institute in respect of securities or futures, or the Vocational Training Council in respect of leveraged foreign exchange trading.

How many CPT hours does a former practitioner who had left the industry for four years and two months need to undergo before he is eligible for the above exemption?

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2.11 The requirement is five CPT hours per regulated activity for each year of absence. In this case, the applicant would have to complete 25 CPT hours for each applicable regulated activity (any fraction of a year would be rounded up for this purpose). The applicant may complete the required 25 CPT hours before lodging the application.

Does the applicant have to submit all relevant CPT records to the SFC to obtain the exemption?

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2.12 At the time of application, an applicant for a licence is only required to submit a letter from his/her principal certifying that he/she has completed the required number of CPT hours, and that the regulatory content of the CPT activities was not less than 50%. The related supporting records and documentary evidence may be inspected by the SFC as and when required.

In relation to a person who seeks to be re-engaged by a registered institution as a relevant individual, the registered institution concerned should maintain records and documentary evidence of completion of such additional CPT by the person. These should be made available for inspection when required by the HKMA.

If I satisfy the conditional exemptions as set out in Appendix E of the Guidelines on Competence, I know that I need to complete additional CPT hours in the appropriate area. Is there a requirement on what types of CPT courses I should choose and when should I complete them?

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2.13 The additional CPT hours to be completed must be in local regulatory knowledge in the relevant regulated activity. They may either be taken within 6 months preceding the application or within 12 months after the approval is granted.

If you have completed the additional CPT hours within 6 months preceding the application, your application should be accompanied by documentary evidence.

If you opt to complete the additional CPT hours within 12 months after the approval is granted, your sponsoring corporation must ensure that you complete the necessary CPT hours within the prescribed timeframe and provide an undertaking to this effect. If you fail to complete the additional CPT hours as required, the fitness and properness of both your sponsoring corporation and yourself may be impugned and your licensing status may be adversely affected.

According to item 10 of the exemption criteria as set out in Appendix E of the Guidelines on Competence, an individual may apply for conditional exemption from taking the local regulatory framework paper if he possesses an extra 3 years of relevant industry experience. I have the extra years of experience gained outside Hong Kong, can I be qualified for the exemption?

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2.14 No. In order to ensure that the person has sufficient knowledge and understanding of how the local regulatory framework operates, the extra experience must be acquired in Hong Kong and it must be recent and relevant. Experience as a relevant individual registered with the HKMA may also be considered.

Example:

Academic/ Industry Qualification	Relevant degree holder
Industry experience	3 years over past 6 years
Management experience	2 years
Additional experience requirement	3 more recent years of licensed experience (or as a relevant individual) in Hong Kong.

For the purpose of itinerant professionals who are individuals from overseas and need to repeatedly visit Hong Kong on business for a short period each time, is it necessary to impose as a condition the chaperoning requirement (as set out in item 7 of Appendix E to the Guidelines on Competence) if the individuals only provide services of regulated activities to certain professional investors?

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2.15 Without compromising investor protection, the SFC is prepared to impose an alternative condition on the itinerant professionals concerned. Under this condition, the chaperoning requirement is removed but the licensee can only provide services that constitute regulated activities to professional investors as defined under the Securities and Futures Ordinance (excluding those persons prescribed by the Securities and Futures (Professional Investor) Rules, e.g. high net worth individuals). Furthermore, the sponsoring corporation has to undertake that, among other things, it will provide adequate local regulatory framework training to the licensee before he carries out regulated activity(ies) in Hong Kong.

Below are the alternative condition and the undertaking required from the sponsoring corporation.

Alternative Condition

The alternative condition is as follows:

The licensee shall not carry out the regulated activity(ies) in Hong Kong for more than 30 days in each calendar year and shall not provide related services to any person other than a professional investor. The term

"professional investor" is as defined in Part 1 of Schedule 1 to the Securities and Futures Ordinance but does not include any person of a class which is prescribed by the Securities and Futures (Professional Investor) Rules.

Undertaking

The sponsoring corporation has to provide an undertaking that it will:

- (1) assume full responsibility for the supervision of the individual's activities during his stays in Hong Kong, to ensure that the individual will comply at all times with the relevant rules and laws;
- (2) provide training in the form of a structured course to the individual to ensure that he is fully aware of the Hong Kong regulatory framework before he commences carrying out regulated activity(ies) in Hong Kong; and
- (3) comply with the requirements set out under Paragraph (6)(c) of Appendix E of the Guidelines on Competence issued by the SFC.

Would an Itinerant Professional be considered competent to act as a responsible officer of the sponsoring corporation?

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2.16 Itinerant professionals should not be responsible officers because responsible officers are required to be responsible for overseeing the regulated activity for which the sponsoring corporation is licensed. Itinerant professionals spend only short periods in Hong Kong from time to time and for specific purposes. This is generally incompatible with the performance of the obligations that are imposed on responsible officers. In any situation in which an itinerant professional is required to be supervised by his sponsoring corporation or to be accompanied by a licensed person while he is in Hong Kong, it would clearly be inappropriate for him to be approved as a responsible officer.

I am currently licensed as a representative for Type 1 regulated activity. I took HKSI LE Papers 1 and 7 before I was licensed 4 years ago. Can I be exempted from re-taking both papers if I want to apply additionally to engage in Type 2 regulated activity?

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2.17 To additionally engage in another type of regulated activity having a different competence requirement (see Q2.2), you are supposed to have fulfilled the industry based qualification and passed the local regulatory framework paper required for the new type of regulated activity. However, if you have:

- (a) passed Papers 1 and 7; and
 - (b) been licensed by the SFC within the past 3 years,
- you may apply for a full exemption from taking both exams even if the exams were taken more than 3 years ago. In the event that you can only fulfil either (a) or (b) above, you will not be qualified for this full exemption.

I have been a relevant individual registered with the HKMA for Type 1 regulated activity until recently. I would like to change employment to a licensed corporation as a licensed representative for Type 2 regulated activity, do I have to re-take HKSI LE Papers 1 and 7 if I have passed those 2 exams before I became a relevant individual 4 years ago?

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2.18 As relevant individuals are treated the same as licensed representatives under the Guidelines on Competence, you may apply for a full exemption if you have been registered with the HKMA as a relevant individual within the past 3 years, i.e. same principle as in Question 2.17 above applies.