

# **Consultation Conclusion Report On Competence and Continuous Professional Training Requirement**

## **I. FOREWORD**

In March 2000, the Commission issued two consultation papers on general guidance in assessing the competence of an applicant for registration and the introduction of continuous professional training requirement on existing registrants. 22 submissions were received from various market participants and professional institutions during the consultation exercise. This document summarises the result of the consultation and the responses of the Commission. The Commission, in its next step, will amend the “Fit and Proper Criteria” to incorporate the revised proposal as outlined in this report. It is scheduled that these new requirements will come into effect on 1 January 2001.

## II. INTRODUCTION

1. The Commission issued the Consultation Papers on a Competence Requirement and Continuous Professional Training (“CPT”) for public consultation on 6 March 2000. This document summarises the comments received and the conclusions on the issues that have drawn public comment.
  
2. The consultation period closed on 31 March 2000. 22 responses were received and amongst which are:
  - American International Assurance Company Limited
  - Cameron Butler (HK) Limited
  - Deloitte Touche Tohmatsu Certified Public Accountants
  - The DTC Association (The Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies)
  - Grand Onward Securities Limited
  - Hong Kong Exchanges and Clearing Limited
  - The Hong Kong Federation of Insurers
  - The Hong Kong Institute of Directors
  - The Hong Kong Institute of Company Secretaries
  - Hong Kong Polytechnic University
  - Hong Kong Securities Institute (including Survey response from 19 Members)

- Hong Kong Securities Professionals Association
- Hong Kong Society of Accountants
- Hong Kong Stockbrokers Association Limited
- Jardine Fleming Limited
- Kingsway SW Securities Limited
- Linklaters & Alliance on behalf of six international firms
- Office of the Commissioner of Insurance
- Principal International (Asia) Limited

### III. SUMMARY OF COMMENTS

1. The comments received from the 22 submissions are summarized and discussed in detail in the following sections.
2. The Commission has carefully and seriously considered all the submissions received. We conclude that, while the proposals in the consultation papers are generally well supported, adjustments need to be made to certain requirements in respect of experience and examination criteria to cater for potential practical difficulties. Minor drafting amendments are also necessary for the sake of avoidance of doubt and to clarify particular issues raised by the respondents.
3. The Commission intends to clarify and revise its proposals on the competence requirement as follows:  
for corporate<sup>1</sup> applicants
  - (a) the competence requirement is applicable to both applicants for registration and existing registrants. To remain fit and proper as a registered business entity, an existing registrant is expected to have an appropriate organisation structure and qualified personnel to enable it efficiently to discharge its functions as a registered corporation;
  - (b) the Commission will accept any arrangement, whether in Hong Kong or elsewhere, be it at local company level or group level, as long as such

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<sup>1</sup> Corporate in this context refers to business entity, namely, sole proprietor, corporation or partnership.

arrangement can achieve the same competence objective of managing business risk, exercising proper control and efficient running of the business;

for individual applicants

- (c) generally speaking, an individual's competence is to be assessed, where appropriate, by evidence demonstrating knowledge about relevant financial products and the market, the local regulatory requirements and relevant working experience. The first element may be satisfied either by passing a local or overseas recognised course or having substantial relevant local or overseas working experience in the area. The second element may be satisfied by passing a recognised course on the local regulatory framework or having substantial local working experience. The third element will be assessed with reference to the functions to be performed by the individual;
- (d) work experience and industry qualification gained either in Hong Kong or overseas will be recognized provided that it is relevant to the functions to be performed by the applicant upon the granting of the registration;
- (e) applicants with substantive relevant overseas but no local experience will generally be required to pass a recognised examination on the local regulatory framework to demonstrate that they are familiar with the local regulatory and legislative environment. If the Commission is satisfied that investor protection will not be compromised, an applicant may be granted a registration conditional upon the passing of a local regulatory framework paper within 3 months after obtaining registration. The Commission may be satisfied that investors'

protection will not be compromised if, for example, an applicant will not be the sole registered director of a company, or the applicant will be closely supervised by another registered director of the firm;

- (f) in the light of the rapid development of the markets, it is expected that satisfactory completion of relevant courses, the passing of recognised exams and the obtaining of relevant experience should be recent and, in any event, within three years of the date of application, although the Commission will consider exceptional cases on their merits;
- (g) recognized educational or industrial qualifications gained more than three years ago will be considered if the applicant has adequate relevant working experience and has remained in the industry (either in Hong Kong or overseas), or can prove recent registration with relevant overseas regulators;
- (h) the list of recognized examinations will be expanded and shall include, but not be limited to, all the approved examinations / courses listed under section 3.3(g)(2) of the Fit and Proper Criteria;
- (i) as with applicants for representative status, director applicants will be required to have a pass in English or Chinese and Mathematics of a standard equivalent to School Certificate examination; and
- (j) while an applicant for registration may have to demonstrate that he has the expected level of industry and regulatory knowledge by passing a recognised course, an existing registrant is not required to do so. However, an existing registrant is expected to remain competent in discharging his or her functions. In

this regard, an existing registrant should continuously update his or her knowledge about the market and relevant regulatory rules and regulations.

4. The Commission intends to clarify and revise its proposals on continuous professional training as follows:

- (a) business entity registrants will be held primarily responsible for designing and implementing a continuous education programme which best suits the needs of its registered directors and representatives;
- (b) the Commission will continue to liaise with the Hong Kong Securities Institute and other professional / tertiary bodies to make available more courses at reasonable fees in order to facilitate registrants in meeting the CPT requirements and minimizing financial burden on registrants;
- (c) in the light of this new requirement and that it takes time for both market participants and course providers to meet the new expectation, the minimum CPT hours requirement for directors and representatives will be adjusted to 5 hours in a calendar year;
- (d) to simplify monitoring and administration of the new requirement, the CPT hours requirement will be computed with reference to a calendar year and should be reported in the Annual Return at the registration anniversary date of the registrant or on the common anniversary date of the corporate registrant to which he is accredited;

- (e) internally organized training course will be recognized for CPT purposes provided that the training topics are relevant and beneficial to the registrants in the performance of their functions; and
- (f) the Commission's Academic Advisory Committee will comprise representatives from regulators, academic institutions, Securities Institute, Consumer Council, tertiary bodies and market practitioners to assume the additional function of advising the Commission on courses and examinations which are suitable to be recognized for the purposes of the competence requirement and to endorse courses for the CPT requirement.



#### IV. RESPONSES TO THE CONSULTATION PAPER ON COMEPTENCE REQUIREMENT

1. This section summarizes the comments received in response to the Consultation Paper on Competence Requirement and the Commission's response.

##### General Comments and Clarification

2. Respondents generally welcomed the proposal in the Consultation Paper which set out objective factors for the assessment of the competence of applicants. It is believed this will improve the transparency of the licensing process. However, some respondents are concerned about the application, the target coverage and also the impact on small and medium sized firms in particular.
3. The competence requirement is one of the entry pre-requisites for registration. As explained in section III paragraph 3(a) and 3(j), it also applies to existing registrants.
4. For applicants or registrants which are business entities, the Commission will administer the competence criteria flexibly, taking into account the size and the nature of the intermediary's business. It will accept alternate arrangements that will achieve the objective of effective management of risk and internal control. The matters specified in the Consultation Paper for assessing competence in relation to business organisation and personnel are by no means exhaustive nor mandatory.

5. The majority of the respondents reacted positively to a test of competence for individuals. However, several respondents pointed out that subjecting overseas applicants with substantive experience to industry based examination requirements may be unfair. One respondent queried whether those with substantive relevant experience but who have passed recognized examinations more than 3 years ago (whether in Hong Kong or elsewhere) would be required to complete the industry based examinations. There was concern that the proposal for a registered director applicant to possess relevant industry experience gained not more than 3 years prior to the date of application was unfair. This may discourage rotation of jobs (such as from dealing business to banking business) especially in large and international firms.
  
6. The Commission, taking note of industry concern, is prepared to waive the industry based examination requirement for those applicants with abundant relevant experience on a case by case basis. However, the Commission remains of the view that recent industry knowledge and an understanding of current local regulatory requirements are extremely important to ensure that applicants can successfully manage their business and properly perform their duties. That said, the Commission will recognize educational qualifications gained more than 3 years ago if the applicant has substantial relevant working experience and has remained in the industry (either in Hong Kong or overseas) or can prove recent registration with relevant overseas regulators. Nevertheless, as a matter of investor protection, the Commission is of the view that though applicants may already possess generic knowledge of the industry by virtue of their local or overseas working

experience, they must at least be familiar with the local regulations. The Commission believes that such applicants should complete a local regulatory framework course and pass the examination to demonstrate that they are familiar with the local regulatory environment.

7. In this connection, if the corporate registrant has in place a qualified registered director, the Commission would be prepared to register an applicant subject to the conditions that the applicant is not the only registered director and that he or she shall pass a recognised local regulatory framework paper within 3 months of obtaining registration. This will afford the applicant the opportunity to assume duty in an appropriately supervised environment pending the passing of the course on local regulatory framework. Under such an arrangement, investors' protection will not be undermined.
8. It should be noted that failure to obtain the pass within the specified time may render the registration invalid unless further extension of time is granted by the Commission. The Commission may extend the period of time to pass the examination if it is satisfied that this will not pose undue risk to the investing public. In this regard, the Commission may impose an additional condition on the registrant limiting his scope of business activities.
9. Some respondents asked for a clearer definition of "relevant industry experience". Similarly, there was also concern that working experience gained overseas would not be

accepted as relevant industry experience for the purpose of assessing competence in Hong Kong.

10. The Commission, in assessing relevant experience, will consider the role and functions to be undertaken by the applicant. On the basis that the experience gained in Hong Kong or elsewhere is closely correlated to the functions to be performed, the Commission is prepared to recognize such work experience as meeting the requisite competence standard.
11. With regard to the list of recognized examinations, respondents thought it should not be more restrictive than is currently provided for in the Fit and Proper Criteria. It was suggested that the list should include the Securities Brokers Examination and Broker's Representative Examination courses for directors and representatives respectively. Respondents also requested confirmation that the listed recognized courses should be completed "within 3 years of" rather than "not less than 3 years prior to" the date of application for registration.
12. The Commission accepts the suggestion and will expand the list of recognised examinations to include all the approved examinations and courses listed under section 3.3(g)(2) of the Fit and Proper Criteria. It will also consider adding other local or overseas courses or examination such as UKSI diploma, Chartered Financial Analysts of the Association for Investment Management and Research and the newly introduced

Diploma of the Hong Kong Securities Institute. The final revisions to the Fit and Proper Criteria will also make it clear that for recognised industry based examinations to be eligible for meeting the competence requirement, these must be completed generally not more than 3 years prior to the date of application. The rationale is that having completed an examination within 3 years ensures that the applicant possesses recent industry and regulatory knowledge. However, the Commission may recognize qualification gained more than 3 years ago if the applicant has adequate relevant working experience and has remained in the industry (either in Hong Kong or overseas) or can prove recent registration with a relevant overseas regulator.

13. Some respondents commented that the requirement for a director to obtain a pass in Chinese would impose a major hurdle for overseas expatriates to work in Hong Kong. This also appears to be different from the requirement for representatives, who are only required to pass either English or Chinese.
14. The Commission notes the discrepancy and agrees that both director and representative applicants need to have a pass either in English or Chinese and Mathematics.

## Comments on Specific Issues

### *The Corporate Applicant – para 10 to 11*

15. Requests were made for clearer guidelines on what constitute “material changes in business and structure” in respect of which the corporate applicant should inform the Commission.
  
16. To enable the Commission to assess whether an applicant continues to be fit and proper, an applicant is required to update material changes to the information provided in its application. In the case of corporate registrants, these changes may include information regarding changes in its business and structure. Information is material if the change has an impact on the nature and operation of the corporate applicant and may affect consideration of whether the registrant remains fit and proper. The Commission is of the view that the applicant is in the best position to judge whether any changes are material in the relevant sense. By way of example, the Commission will generally consider the following material:
  - Changes in key personnel;
  - Significant alteration to capital structure (whether debt or shareholder capital);
  - Changes in services or products provided;
  - Major modification to risk management policy; and
  - Key changes to internal control procedures.

Market participants are also reminded that changes in control or substantial shareholder is required, under statute, to be reported to and approved by the Commission.

*The Natural Person – para 12 to 13*

17. Further clarification on the ethical standards expected by the Commission was requested.
18. The Commission believes that generally accepted business ethics standard should apply in the circumstances. The matter must be assessed against the fact that a SFC registrant is in a position of trust and responsibility with respect to clients. One reference point is the “Ethics in Practice – A Practical Guide for Financial Practitioners” published jointly with the Independent Commission Against Corruption, SAR in October 1999.

*Test of Competence for Corporation – para 14 to 16*

19. In connection with the Organization Structure - Business Profile and Risk Profile, respondents commented that the provision of information on business strategy, marketing emphasis and competitive challenges may be too sensitive to disclose for the purpose of seeking registration.
20. The Commission accepts that information on business strategy, marketing emphasis and competitive challenges are not strictly necessary and agrees to delete it from the requirement. It will be satisfied if information on target market clientele, products and service type are submitted. This information is required to enable the Commission to assess the risk that the applicant may pose to the investing public and the market. The Commission wishes to emphasise that the approach set out in paragraph 16 of the

Consultation Paper will be applied, having regard to the size, complexity of a corporate applicants' operations and other factors relevant to assessing the competence of a corporate applicant.

21. With regard to the matters listed under the headings Organisation Structure and Personnel, the comments received and the Commission's response are summarised as follows:

(a) Organization Structure - Risk Management and Control Strategy

It is suggested that we should consider risk management and control strategy for branch operations.

This recommendation is welcome by the Commission.

(b) Organization Structure - Risk Management Policy and Procedures and Information Technology Support

Respondents remarked that the appointment of independent risk manager and information technology managers may not be cost effective for small sized firms. More precise definition of "independent" in this context was also sought. Respondents asked whether the employment of a service bureau or the oversight of risk management and other control functions performed at group level, (whether in Hong Kong or elsewhere) would satisfy the need for an independent risk or technology manager. Another respondent enquired if management



supervision by designated committees of the Board would meet the independent risk manager requirement. Such alternatives will certainly be considered.

The Commission will not insist that an independent risk manager be appointed if there is alternate arrangement in place which is sufficient to manage business risk exposures and exercise effective control over operations. This is irrespective of whether the alternate arrangement is undertaken in Hong Kong or elsewhere, at the local company level or group level.

However, if an independent risk manager or information technology manager is appointed, the person should have appropriate qualifications that will allow them to effectively oversee and monitor the risk exposure and the systems (including the computer system) of the company. Ideally, matters such as disaster recovery and business planning should be addressed. There should also be clear segregation of duties: the responsibilities of the independent risk manager or information technology manager should be clearly separated from that of front office personnel. Clearly, in many cases, more than 1 person will need to be appointed. The Commission will, administer these requirements flexibly, taking into consideration the size, nature of operation, of the corporation, and any other factors it may think relevant.

(c) Organization Structure - Internal and External Audit Functions

It is suggested that the compliance function should be added under this heading, as it is crucial to the management of risk exposures and the exercise of effective control over operations. It is also suggested reference to “external audit” be deleted as control over external audit personnel does not rest with the corporate registrant. Furthermore, it should be clarified that all audit findings that are not resolved within established time frames must be reported to senior management.

The Commission agrees to all of the above suggestions.

(d) Organization Structure - Internal Control System

One respondent suggested that only significant and core lines of business need proper documentation of operational and control procedures.

The Commission does not agree with that view. Proper documentation is essential for providing employees with the necessary guidance in running the business in accordance with the company’s business objectives, professional standards and regulatory requirements.

(e) Personnel – Qualified Staff

Clarification is sought by some respondents on the proposed experience and academic qualification requirements for supervisory staff.

The Commission expects practical experience to be gained in both front and back office, preferably at supervisory level. Appropriate academic qualifications may include the taking of degrees in related disciplines, relevant professional qualifications or settlement or compliance related industry courses. Examples of “related” and “relevant” degrees, professional qualification include degrees or professional qualifications in law, accounting, business management, or risk management.

(f) Personnel – Training Policies

One respondent suggested that relevant operational and control manual should not only be distributed to staff, but must also be accessible to staff at any time.

The Commission agrees.

(g) Test of competence for registered director

In relation to Option 1<sup>2</sup> respondents commented that academic qualifications in the areas of law, information technology and financial markets should be recognized.

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<sup>2</sup> Under option 1, the applicant must have:

- An appropriate post secondary qualification in financial discipline (such as economics, finance, accounting) or equivalent;
- obtained a pass in one of the prescribed short industry qualification courses<sup>4</sup> in order to gain industry specific knowledge;
  - the equivalent of 3 years relevant industry experience over the immediate past 6 years; and
  - not less than 2 years proven management skill and experience.

The Commission's view is that academic qualification which provide sufficient general understanding of the legislative and regulatory framework and industry specific knowledge of the financial markets should be regarded as eligible qualification.

For Option 3<sup>3</sup> which requires an applicant to complete one of the prescribed short industry qualification course, the definition of the term "complete" is sought.

The Commission expects that the course itself will set a standard for satisfactory completion – be it by passing an examination or course work, or attendance and participation. Unless the design of the course addresses that matter satisfactorily, it will not be approved as one of the prescribed short industry qualification courses.

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Under option 3, the applicant must have:

- the equivalent of 8 years relevant industry experience over the immediate past 11 years;
- completed one of the prescribed short industry qualification courses<sup>4</sup> in order to gain industry specific knowledge; and
- not less than 2 years proven management skill and experience.

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For applicants who have left the industry for an extended period of time (say three years) and who apply for registration to perform functions substantially similar to those for which they were registered, the Commission, will flexibly consider this requirement for meeting the prescribed short industry qualification courses.

## V. RESPONSES TO THE CONSULTATION PAPER ON CONTINUOUS PROFESSIONAL TRAINING

1. This section summarizes the comments received in response to the Consultation Paper on Continuous Professional Training. The first part deals with some of the general comments and clarifications sought by the respondents whilst the latter part responds to the comments received on specific matters of detail.

### General Comments and Clarification

2. Respondents strongly supported the introduction of continuous professional training for registrants to enhance and maintain their professional standards. However, its implementation attracted wide ranging comments and suggestions in the areas of the proposed corporate obligation, the potential training expenses, the number of CPT hours required, the availability of appropriate external courses and the timeframe for implementing the programme.
3. The Commission remains of the view that corporate registrants have the responsibility to train or otherwise ensure that staff maintain professional standards at all times. As a consequence, corporate registrants will be held primarily responsible for designing and implementing a continuous education programme for registered directors and representatives.

4. In light of the additional costs to be incurred on training, a few respondents suggested the Commission and the Exchanges should financially sponsor or support the smaller firms. It was also suggested that funding could come from the transaction levy.
  
5. The Commission accepts that there will be some increase in financial burden on corporate registrants to develop and finance appropriate training courses for their personnel, especially where those programmes do not already exist. The Commission believes, however, that the financial burden will be offset by savings arising from fewer customer complaints and increases in business transaction as a result of having a team of competent and well trained representatives. That said, the Commission has been and will continue to actively liaise with the Hong Kong Securities Institute and other professional and tertiary education bodies to make available CPT courses at reasonable fees. In addition, the Commission will assist industry associations to organise CPT courses on new market developments and changes to laws for example by providing speakers and venues.
  
6. In connection with the number of CPT hours required for directors, some of the respondents were of the view that directors are generally more experienced and hence required fewer training hours than representatives. It was said, therefore, that the CPT hours for directors should be lowered. Against that view, the responsibilities of directors are generally greater and more diverse.

7. On balance, the Commission accepts that the minimum CPT hours for directors may be lowered from that proposed in the Consultation Paper. As a starting point for this new requirement, the Commission believes that the achievement of 5 CPT hours within a year is minimal and reasonable for both directors and representative registrants. The Commission will regularly review the requirements for CPT hours to ensure such requirements meet general market needs and international standards.
  
8. To minimise the administrative burden on corporate registrants who must keep track of their registered staffs' compliance with the continuous professional training requirement, the Commission will allow the registrants' compliance be met on a calendar year basis but reported on the anniversary dates of their registrations by means of the Annual Return. This means the registrants are only required to report on their continuous professional training 1 year after its implementation. For example, if the continuous professional training requirement is implemented in January 2001, the first reporting will be for those registrants whose registration anniversary falls in January 2002. Their reporting period for continuous professional training compliance will be calendar year January 2001 – December 2001. For those who are registered after January 2001, say July 2001, they will have to report CPT compliance in July 2002 covering the calendar period July 2001 to December 2001. The requirement will be on a pro-rata basis: 2.5 hours of continuous professional training for the 0.5 calendar year period.

9. A number of corporate registrants proposed a delay in implementing the programme until sufficient external courses are available in the market.
10. The Commission does not believe a delay in commencement will benefit the market. Setting minimum CPT standards to ensure registrants continuously maintain, improve and broaden their knowledge and skills is important if they are to perform their functions competently and professionally. It is therefore important to implement these requirements as soon as practical so that industry standards are maintained to an internationally acceptable level. Moreover, as registrants are only required to complete 5 CPT hours within a calendar year, the number of hours demanded is relatively few, especially in comparison to other professional bodies. It should pose no major difficulty for either corporate or individual registrants to comply with the obligation.
11. The following practical issues have been raised with regards to CPT hours:-
- (a) whether the CPT hours required for an individual, who is first registered during the year, can be applied pro-rata with reference to the registration period;  
*Commission's response: This is acceptable.*
- (b) whether the training courses attended prior to the date of grant of registration but in the same year of registration can be counted as CPT hours;  
*Commission's response: This is acceptable.*



- (c) whether, when a registrant changes his employer, he can carry forward CPT hours earned at the old employer and whether the old employer is obliged to inform the new employer of the number of CPT completed hours;

*Commission's response: The employee can carry forward CPT hours earned.*

*The new employer does not need to get the information from the old employer. It can rely on declaration made by the staff.*

- (d) whether a registrant needs to apportion his CPT hours earned with reference to his periods of employment with the old and new employers;

*Commission's response: Not necessary.*

- (e) whether the new employer will be penalized if the employee has not earned enough CPT hours at his old employer;

*Commission's response: No but the new employer has to ensure that the new employee meets the yearly 5 CPT hours.*

- (f) whether the CPT hours accumulated in one two years period can be carried forward to the next two years period.

*Commission's response: This is not directly applicable as the yearly CPT compliance is recommended to be 5 CPT hours. Excess CPT accumulated in one calendar year cannot be carried forward to the following year.*

## Comments on Specific Issues

### *Obligation of Corporate Registrant – para 10 to 11*

12. Respondents asked the Commission to issue guidelines on how to design and implement the continuous training programme.
  
13. The Commission stresses that the continuous training programme aims to strengthen the professional knowledge of the registrants, and is best assessed by the corporate registrant who knows their business operation well and can best relate those operations to the training needs of its staff. While the Commission has highlighted certain topics of interests in the Consultation Paper, these are for reference only and by no means exhaustive. Management of a corporate registrant should design and choose the CPT courses that are most suitable for their staff.

### *CPT Requirement on the Individual Registrants – para 12 to 14*

14. Respondents sought clarification on whether attendance at internally organized training courses would be counted as CPT hours and whether topics of interests listed in these paragraphs are mandatory.
  
15. The Commission will recognize internal training courses provided that their content is structured and of benefit to staff in the performance of their functions. As mentioned in paragraph 14, the topics of interests are examples only. Any subject relevant to the

registrants' duties and which may enhance the registrants' performance of their duties would meet the continuous professional training purpose.

16. Topics of interests were put forward by respondents. They mainly requested the Commission to recognize courses on subjects like general law principles and business management.
17. The Commission accepts the suggestions. However, it would like to reiterate that these topics of interests are examples only, not mandatory subject matter.
18. In view of the concerns raised as to which and what type of courses will meet the continuous professional training requirement, the Commission is of the view that the Commission's current Academic Advisory Committee ("AAC"), comprising representatives from regulators and academic institutions, (where necessary, together with representatives from market practitioners, the Securities Institute and the Consumer Council) is a committee suitable to assume an additional role of scrutinising and giving recognition to courses for continuous professional training. These can be internally organised courses by registrants as well as courses run by professional bodies and tertiary institutions. For greater clarity, the AAC will review courses submitted to it for approval, however, it is not mandatory that all courses for continuous professional training have to be submitted to the AAC for approval. The AAC can provide an accreditation service for those who wish to have certainty that their courses will be recognised for continuous

professional training requirement. Furthermore, the AAC is expected to advise the Commission on courses submitted for approval as recognised industry based courses for the purpose of the competence requirement.

19. One respondent proposed recognition of the time spent in giving relevant lectures or teaching as CPT hours. The Commission generally agrees to this proposal although clearly repetition of a lecture will not satisfy the requirement.

#### *Consequence of Non-Compliance – para 18 to 19*

20. Respondents also sought clarification on the likely disciplinary action for non-compliance and commented that disciplinary consequences may appear to be too harsh in the circumstances.
21. The Commission would like to clarify that any non-compliance with the CPT requirements may cast doubts on whether a registrant remains fit and proper. The Commission will take into consideration the circumstances and the facts of the case before it takes any disciplinary action. For first non-compliance, it is most likely that the Commission will impose a condition requiring the registrant to make up the CPT requirements within a reasonable time. However, for cases where, apart from the non-compliance of CPT requirements, there are other breaches which suggest that the registrant was unable to perform his function efficiently, the Commission will likely impose a heavier penalty.

## VI. WAY FORWARD

1. The Commission will continue to liaise with industry and in particular the Securities Institute, to facilitate the development and provision of courses for the purposes of the competence and continuous professional training requirements.
2. The Commission's Academic Advisory Committee is recommended to perform an additional function of advising the Commission on recognition of courses for the purposes of competence requirement and on the approval of courses for CPT requirement. The public is welcome to suggest appropriate courses for consideration by the AAC.
3. The Fit and Proper Criteria will be amended to reflect the introduction of the competence requirement for entry applicants and the CPT requirement for existing registrants.

## VII. FINAL NOTE

The Commission would like to express its appreciation to the industry participants and other interested parties who have made valuable suggestions and comments in response to the Consultation Papers.