

Application of SFC Licence in Hong Kong

July 2024



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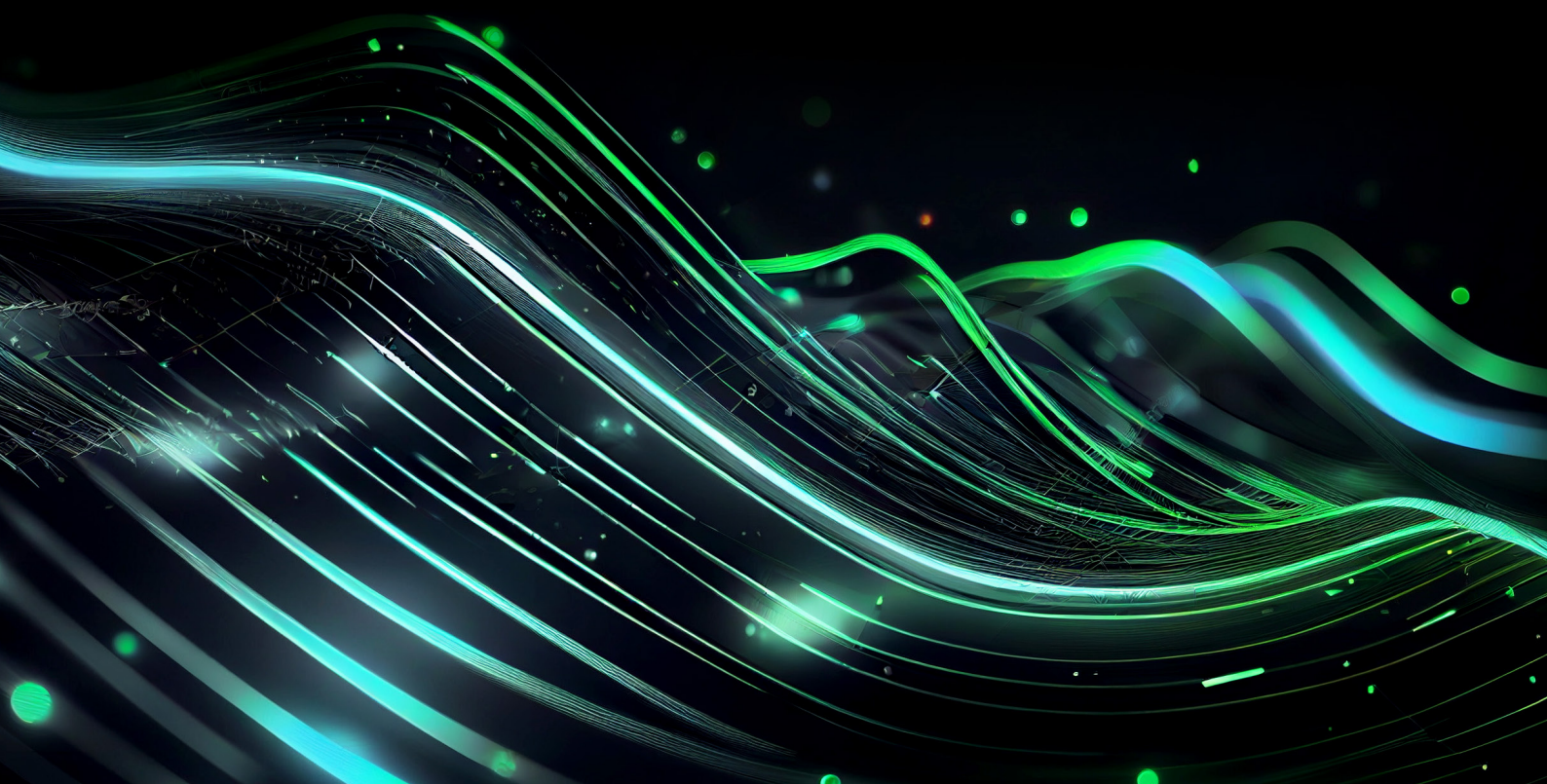
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Overview of the SFC licensing regime

This publication provides an overview of the key features of licensing requirements and ongoing regulatory obligations for any companies and individuals carrying on regulated activities ("RA") in Hong Kong. The Securities and Futures Commission ("SFC") is the regulator empowered by the Securities and Futures Ordinance

("SFO") to oversee the regulated activities in the securities and futures markets in Hong Kong. Under Hong Kong's regulatory regime, companies and individuals that intend to carry on the following types of regulated activities in Hong Kong are required to apply for the appropriate type of SFC licence unless a specific exemption is

applicable, including licence to provide VA service under the AMLO regime and Type 13 licence that has and will come into effect in June 2023 and October 2024, respectively. Depending on the nature of the business, one or more SFC licence(s) should be applied to conduct the proposed regulated activities.



Table 1a. Type of regulated activities (Under the SFO regime)

Type 1	Dealing in securities
Type 2	Dealing in futures contracts
Type 3	Leveraged foreign exchange trading
Type 4	Advising on securities
Type 5	Advising on futures contracts
Type 6	Advising on corporate finance
Type 7	Providing automated trading services
Type 8	Securities margin financing
Type 9	Asset management
Type 10	Providing credit rating services
Type 11¹	Dealing in OTC derivative products or advising on OTC derivative products
Type 12¹	Providing client clearing services for OTC derivative transactions
Type 13²	Providing depositary services for relevant CISs

¹ Type 11 & Type 12: effective upon the commencement of the new licensing regime for these RAs

² Type 13: To be effective on 2 October 2024

Table 1b. Type of licence (Under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance regime (the "AMLO regime"))

Providing a virtual asset ("VA") service (operating a virtual asset exchange) ³
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³ Under the dual licence arrangement, the centralized virtual asset trading platform operator (the "VATP") is expected to apply Types 1 and 7 RA licence under the SFO together with the licence to provide VA service under the AMLO to cater the evolving classification of VAs.

Major requirements for licensing application

The key licensing requirements for the common types of licences that Deloitte provides supports are outlined in the following table. In general, the SFC type 1 (i.e. dealing in securities) licence applicant would apply the SFC type 4 (i.e. advising on securities) licence together for the business purpose. The similar reason applies to SFC type 2 (i.e. dealing in futures contracts) and SFC type 5 (i.e. advising on futures contracts) as well.

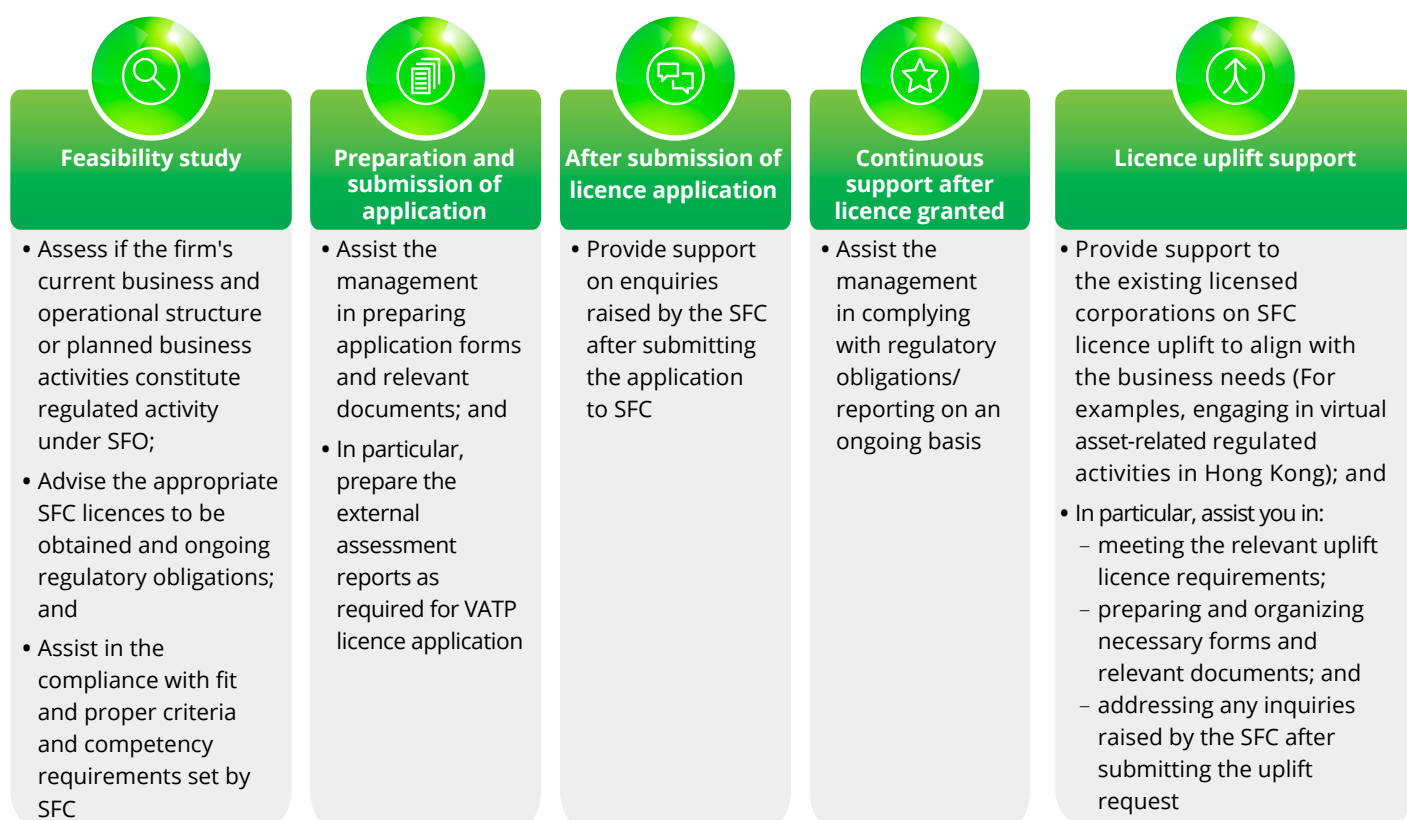
Table 2. Summary of key regulatory requirements

	Type 1	Type 2	Type 3	Type 4	Type 5	Type 6	Type 9	Type 13	VATP
Legal structure	<ul style="list-style-type: none"> Hong Kong incorporated company; or An overseas company registered with the Hong Kong Companies Registry 								
Responsible Officer ("RO")	<ul style="list-style-type: none"> Appoint not less than two ROs to directly supervise the conduct of each RA being applied for; For each RA, at least one RO is available at all times to supervise the business; At least one of the ROs must be an executive director; and Subject to fit and proper requirements 								
Licensed representative ("LR")	<ul style="list-style-type: none"> All personnel carrying on regulated activities need to be licensed as a LR; and Subject to fit and proper requirements 								
Senior management	Holds the primary responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures includes: <ul style="list-style-type: none"> Directors RO Manager-In-Charge ("MIC") of core functions 								
MIC	<ul style="list-style-type: none"> Designate one MIC for each of the eight core functions; MICs of overall management oversight function and the key business line function must be ROs; The remaining MICs are appointed individual(s) who are responsible for operational control and review, risk management, finance and accounting, information technology, compliance, AML/CTF; and A MIC can be in charge of more than one core function or appoint two or more individuals as MICs to jointly manage one core function 								
Fitness and properness	Demonstrate to the SFC that it is fit and proper in the following criteria: <ul style="list-style-type: none"> Financial status or solvency; Relevant educational or other qualifications or experience; Competent, honest and fair; and Reputation, character, reliability and financial integrity 								
Financial resources	<ul style="list-style-type: none"> Maintain paid-up share capital and liquid capital at all times not less than the specified amounts according to the Securities and Futures (Financial Resources) Rules Please refer to Appendix 1 for the minimum paid-up capital and liquid capital for each type of RA 								

	Type 1	Type 2	Type 3	Type 4	Type 5	Type 6	Type 9	Type 13	VATP
Exemption	Incidental exemption May not be required to be licensed for certain regulated activities if such activities are performed wholly incidental to your carrying out of another regulated activity for which you are already licensed: <ul style="list-style-type: none">• Licensed for Type 1 RA and wish to carry out Type 4, 6, and/ or 9 RA. Do not need to be licensed for Type 4, 6 and 9 provided that these activities are carried out wholly incidental to your Type 1 business• Licensed for Type 2 RA and wish to carry out Type 5 and/ or 9 RA. Do not need to be licensed for Type 5 and 9 provided that these activities are carried out wholly incidental to your Type 2 business• Licensed for Type 9 RA and wish to carry out Type 1, 2, 4 and/ or 5 RA. Do not need to be licensed for Type 1, 2, 4 and/ or 5 provided that these activities are carried out wholly incidental to your Type 9 business Group company exemption N/A N/A N/A The company may be exempted from requiring a Type 4, 5, 6 or 9 licence when providing the relevant advice or service solely to its wholly owned subsidiaries, its holding company, which holds all its issued shares, or other wholly owned subsidiaries of that holding company, given that the company provides the relevant services to its group company in respect of their own assets N/A N/A								
Staffing resources	<ul style="list-style-type: none">• Appoint one compliance officer and/or operations manager with finance, accounting, compliance or risk management background; and• An RO should not take up the compliance function of the company as the SFC expects for segregation of duties								
Continuous professional training	<ul style="list-style-type: none">• A licensed corporation should at least annually evaluate the training needs of the individuals they engage; and• Licensed individuals must undertake a minimum of 5 continuous professional training hours per calendar year for each RA they directly engaged in								
Submission of audited accounts	Submit audited accounts and other required documents within 4 months after each financial year end								
Submission of financial resources returns	<ul style="list-style-type: none">• Monthly filing with a filing deadline of 21 calendar days of the monthly period end; or• Semi-annually filing with a filing deadline of 21 calendar days of the semi-annual period end, only subject to Type 4, Type 5, Type 6 and/or Type 9 and the licensing condition of not holding clients' assets								
Anti-money laundering ("AML") and counter-financing of terrorism ("CFT") framework	<ul style="list-style-type: none">• Design and implement anti-money laundering and counter-financing of terrorism policies, procedures and controls to meet the relevant legal and regulatory requirements• Further information on AML/CFT can be found at "Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (For Licensed Corporations and SFC-licensed Virtual Asset Service Providers)"								
Internal control and risk management framework	<ul style="list-style-type: none">• Implement adequate and effective internal control procedures to protect their operation and clients from financial loss caused by theft, fraud and other misconduct• Please refer to "Management, Supervision and Internal Control Guidelines For Persons Licensed by or Registered with the Securities and Futures Commission" for details Exclusive to VATP: <ul style="list-style-type: none">• Custody of client assets: Only hold client assets on trust for its clients through its Associated Entity• External assessment reports: Engage an external assessor to (i) assess the policies, procedures, systems and controls; and submit the assessor's reports to the SFC when submitting the licence application (Phase 1 Report) and after approval-in-principle is granted (Phase 2 Report); (ii) conduct annual reviews of its activities and operations and submit the report within four months after the end of each financial year (The first report to be submitted within 18 months of the date of approval of the licence)• Monthly reports: Submit monthly reports to the SFC on its business activities within two weeks after the end of each calendar month• Please refer to "Guidelines for Virtual Asset Trading Platform Operator" and "Licensing Handbook for Virtual Asset Trading Platform Operators" which the regulatory requirements applicable to VATP have been set out in detail								

How Deloitte can help

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Contact us



Ted Ho

Partner
Hong Kong
Tel: + 852 2852 6489
Email: teho@deloitte.com.hk



Eric Ng

Director
Hong Kong
Tel: + 852 2238 7842
Email: eng@deloitte.com.hk



Candy Pan

Director
Hong Kong
Tel: + 852 2852 1013
Email: candypan@deloitte.com.hk



Jade Ko

Associate Director
Hong Kong
Tel: +852 2258 6108
Email: jadko@deloitte.com.hk

Appendix 1 – Minimum paid-up share capital and liquid capital requirements

Regulated activity / Licence	Minimum paid-up share capital	Minimum liquid capital
Type 1 –		
(a) in the case where the corporation is an approved introducing agent or a trader	Not applicable	\$500,000
(b) in the case where the corporation provides securities margin financing	\$10,000,000	\$3,000,000
(c) in any other case	\$5,000,000	\$3,000,000
Type 2 –		
(a) in the case where the corporation is an approved introducing agent, a trader or a futures non-clearing dealer	Not applicable	\$500,000
(b) in any other case	\$5,000,000	\$3,000,000
Type 3 –		
(a) in the case where the corporation is an approved introducing agent	\$5,000,000	\$3,000,000
(b) in any other case	\$30,000,000	\$15,000,000
Type 4 –		
(a) in the case where in relation to Type 4 regulated activity, the corporation is subject to the licensing condition that it shall not hold client assets	Not applicable	\$100,000
(b) in any other case	\$5,000,000	\$3,000,000
Type 5 –		
(a) in the case where in relation to Type 5 regulated activity, the corporation is subject to the licensing condition that it shall not hold client assets	Not applicable	\$100,000
(b) in any other case	\$5,000,000	\$3,000,000
Type 6 –		
(a) in the case where the corporation acts as a sponsor:		
- hold client assets	\$10,000,000	\$3,000,000
- not hold client assets	\$10,000,000	\$100,000
(b) in the case where the corporation does not act as a sponsor:		
- hold client assets	\$5,000,000	\$3,000,000
- not hold client assets	Not applicable	\$100,000
Type 9 –		
(a) in the case where in relation to Type 9 regulated activity, the corporation is subject to the licensing condition that it shall not hold client assets	Not applicable	\$100,000
(b) in any other case	\$5,000,000	\$3,000,000
Type 13 –		
at all times	\$10,000,000	\$3,000,000
VATP –		
at all times	\$5,000,000	\$3,000,000

Source: The SFC Licensing Handbook – January 2022 & Conclusions on Proposed Amendments to Subsidiary Legislation and SFC Codes and Guidelines to Implement the Regulatory Regime for Depositaries of SFC-authorized Collective Investment Schemes – March 2023 & Guidelines for Virtual Asset Trading Platform Operators Consultation – June 2023



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