



**APPLICATION FOR RECOGNITION / APPLICATION FOR RENEWAL OF RECOGNITION
AS A RECOGNIZED CERTIFICATION AUTHORITY
APPLICATION FOR RECOGNITION OF CERTIFICATE(S)
UNDER THE ELECTRONIC TRANSACTIONS ORDINANCE (CAP. 553)**

NOTES TO APPLICATION FORM

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The Government of the Hong Kong Special Administrative Region

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1 INTRODUCTION

- 1.1 This notes provide information on the particulars and documents that shall be furnished to the Director of Information Technology Services (the Director) when Applicants apply for recognition under sections 20(3)(a), 22(2) and (10) and 27(4) of the Electronic Transactions Ordinance (Cap. 553) (the Ordinance).
- 1.2 Applicants applying simultaneously (a) for recognition or for renewal of recognition as a recognized certification authority (CA) and (b) for recognition of certificates issued or to be issued by the CA should read sections 2, 3, 5, 6, 7, 8 and 9 in this notes.
- 1.3 A recognized CA applying for recognition of certificates issued or to be issued by the CA, when the application is not made simultaneously with an application for renewal of recognition as a recognized CA, should read sections 4, 5, 6, 7, 8 and 9.

2 RECOGNITION OR RENEWAL OF RECOGNITION AS A RECOGNIZED CERTIFICATION AUTHORITY

The particulars and documents to be submitted by all Applicants to the Director in applying simultaneously:

- for recognition or for renewal of recognition as a recognized CA; and
- for recognition of certificate(s) issued or to be issued by the CA

shall include without limitation:

- (i) a completed application form in paper or electronic form;
- (ii) a signed letter of assurance, in paper or electronic form, from the Applicant stating that there will be:
 - (a) at least one Responsible Officer other than the Applicant

- within the meaning of the Ordinance who is ordinarily resident in Hong Kong at all times until it ceases to provide service as a CA; and
- (b) at least one person resident in Hong Kong authorized to accept on behalf of the Applicant service of process and any notices required to be served on the Applicant at all times until the expiration of a period of 3 years from the date on which it ceases to provide service as a CA;
 - (iii) where the Responsible Officer in paragraph 2(ii) at any time ceases to be able to act on behalf of the Applicant whether by reason of death or incapacity or other unforeseen reason, the Applicant shall be deemed to comply with paragraph 2(ii) if, not later than 6 weeks from that time, the Applicant delivers to the Director in respect of some other person so appointed as Responsible Officer by the Applicant the statutory declaration as specified in paragraph 2(iv) and authorisation as specified in paragraph 2(v) provided that the Applicant has notified the name of the new Responsible Officer to the Director within 3 working days of such replacement;
 - (iv) a statutory declaration, in paper form, from the Applicant and each Responsible Officer of the Applicant declaring that he is a fit and proper person within the meaning of the Ordinance;
 - (v) an authorisation, in paper form, from the Applicant and each Responsible Officer of the Applicant to the Commissioner of Police or his equivalent in the overseas jurisdiction to disclose the Applicant's and each Responsible Officer's criminal records, if any, to the Director;
 - (vi) a certified true copy, in paper form, of the Applicant's and each Responsible Officer's identity card or passport, if applicable;
 - (vii) a list, in paper or electronic form, of the names and addresses of one or more persons resident in Hong Kong authorized to accept on behalf of the Applicant service of process and any notices required to be served on the Applicant, and also:

- (a) if applicable, the address of the principal place of business of the Applicant in Hong Kong;
- (b) if applicable, the respective addresses of the principal place of business; and
- (c) the registered office (or its equivalent) of the Applicant in the place of its incorporation

provided that in the case of a firm of solicitors or professional accountants so authorized, it shall be sufficient for the purpose of paragraphs 2(ii), 2(iii), 2(vii)(b) and 2(vii) (c) to deliver the name of the firm and its business address in Hong Kong.

(Please note:

- (I) a reference to solicitors is a reference to persons who are solicitors qualified to act as such under the Legal Practitioners Ordinance (Cap. 159);
 - (II) a reference to professional accountants is a reference to persons who are registered as professional accountants and hold practising certificates under the Professional Accountants Ordinance (Cap. 50));
- (viii) a memorandum of appointment or power of attorney or other document under the seal of the Applicant or executed on its behalf in such manner as to be binding on the Applicant, in paper form, authorizing any person named under paragraph 2(vii) to accept service of process and any notices on behalf of the Applicant;
 - (ix) a signed copy of the assessment report, in paper or electronic form, on the Applicant's ability to comply with the provisions of the Ordinance applicable to a recognized CA and with the Code of Practice for Recognized Certification Authorities (the Code of Practice);
 - (x) a copy of each certification practice statement, in paper or electronic form, published or to be published by the Applicant;

- (xi) any documentary evidence, in paper or electronic form, regarding the financial status of the Applicant for the period of 3 years preceding the date of application such as audited financial statements or management account;
- (xii) a copy of the termination plan, in paper or electronic form, as defined in section 11 of the Code of Practice; and
- (xiii) the application fee.

3 ADDITIONAL PARTICULARS AND DOCUMENTS

In addition to the particulars and documents to be furnished as set out in section 2, the following categories of Applicants shall furnish additional particulars and documents including without limitation:

- (a) Individuals or sole traders who have established a place of business in Hong Kong
 - (i) in case where the Applicant is not a resident in Hong Kong and is a foreign national, a legal opinion, in paper form, stating that the Applicant can legally run a CA business in Hong Kong;
 - (ii) a certified true copy, in paper form, of the business registration certificate; and
 - (iii) if the Responsible Officer(s) of the Applicant is a company, a certified true copy, in paper form, of the following:
 - (1) a certificate of incorporation or its equivalent such as a certificate of good standing of such company;
 - (2) a certificate of incumbency of such company, if any;
 - (3) an up-to-date register of directors of such company;
 - (4) a business registration certificate or its equivalent of such company, if any; and

- (5) the charter, statutes, by-laws or memorandum and articles of association of the company or other instrument constituting or defining the constitution of such company.

- (b) Companies incorporated under the Companies Ordinance (Cap. 32)
 - (i) a certified true copy, in paper form, of the following:
 - (1) a certificate of incorporation of the Applicant;
 - (2) an up-to-date register of directors of the Applicant;
 - (3) a business registration certificate of the Applicant; and
 - (4) memorandum and articles of association of the Applicant; and

 - (ii) if the director(s) or the Responsible Officer(s) of the Applicant is also a company, a certified true copy, in paper form, of the following:
 - (1) a certificate of incorporation or its equivalent such as a certificate of good standing of such company;
 - (2) a certificate of incumbency of such company, if any;
 - (3) an up-to-date register of directors of such company;
 - (4) a business registration certificate or its equivalent of such company, if any; and
 - (5) the charter, statutes, by-laws or memorandum and articles of association of such company or other instrument constituting or defining the constitution of such company.

- (c) Overseas incorporated companies which have established a place of business in Hong Kong and are registered under Part XI of the Companies Ordinance (Cap. 32)
 - (i) a legal opinion, in paper form, stating that the Applicant can legally run a CA business in Hong Kong;

- (ii) a certified true copy, in paper form, of the following:
 - (1) a certificate of incorporation or its equivalent such as a certificate of good standing of the Applicant;
 - (2) a certificate of incumbency of the Applicant, if any;
 - (3) an up-to-date register of directors of the Applicant;
 - (4) a business registration certificate or its equivalent of the Applicant, if any; and
 - (5) the charter, statutes, by-laws or memorandum and articles of association of the Applicant or other instrument constituting or defining the constitution of the Applicant; and

- (iii) if the director(s) or the Responsible Officer(s) of the Applicant is also a company, a certified true copy, in paper form, of the following:
 - (1) a certificate of incorporation or its equivalent such as a certificate of good standing of such company;
 - (2) a certificate of incumbency of such company, if any;
 - (3) an up-to-date register of directors of such company;
 - (4) a business registration certificate or its equivalent of such company, if any; and
 - (5) the charter, statutes, by-laws or memorandum and articles of association of the company or other instrument constituting or defining the constitution of such company.

- (d) Overseas incorporated companies without a place of business in Hong Kong
 - (i) a legal opinion, in paper form, stating that the Applicant can legally run a CA business in Hong Kong;
 - (ii) a certified true copy, in paper form, of the following:
 - (1) a certificate of incorporation or its equivalent such as a

- certificate of good standing of the Applicant;
 - (2) a certificate of incumbency of the Applicant, if any;
 - (3) an up-to-date register of directors of the Applicant;
 - (4) a business registration certificate or its equivalent of the Applicant, if any; and
 - (5) the charter, statutes, by-laws or memorandum and articles of association of the Applicant or other instrument constituting or defining the constitution of the Applicant; and
- (iii) if the director(s) or the Responsible Officer(s) of the Applicant is also a company, a certified true copy, in paper form, of the following:
- (1) a certificate of incorporation or its equivalent such as a certificate of good standing of such company;
 - (2) a certificate of incumbency of such company, if any;
 - (3) an up-to-date register of directors of such company;
 - (4) a business registration certificate or its equivalent of such company, if any; and
 - (5) the charter, statutes, by-laws or memorandum and articles of association of such company or other instrument constituting or defining the constitution of such company.
- (e) Public bodies as defined in the Interpretation and General Clauses Ordinance (Cap. 1) or statutory incorporated bodies under any Hong Kong Ordinance (other than the Companies Ordinance (Cap. 32))
- (i) a certified true copy, in paper form, of the following, if any:
- (1) an up-to-date register of directors;
 - (2) a business registration certificate; and
 - (3) the memorandum and articles of association of the statutory incorporated body or other instrument constituting or defining the constitution of the statutory incorporated body; and

- (ii) a legal opinion, in paper form, stating that the Applicant can legally run a CA business in Hong Kong.

4 RECOGNITION OF CERTIFICATE(S)

The particulars and documents to be submitted to the Director by a recognized CA, in applying for recognition of certificate(s) issued or to be issued by the recognized CA and when such application is not made simultaneously with an application for renewal of recognition as a recognized CA, shall include without limitation:

- (i) a completed application form in paper or electronic form;
- (ii) a copy of the relevant certification practice statement, in paper or electronic form, published or to be published by the Applicant;
- (iii) a signed letter of confirmation, in paper or electronic form, from the Applicant to the Director stating that the certificate(s) are issued or will be issued in accordance with the Code of Practice;
- (iv) any documentary evidence, in paper or electronic form, that arrangements have been put in place or proposed to be put in place by the Applicant to cover any liability that may arise from the issuance of the particular certificate(s) or type(s), class(es) or description(s) of certificates under the application; and
- (v) the application fee.

5 PARTICULARS AND DOCUMENTS NOT IN ENGLISH OR CHINESE

If any of the above particulars and documents mentioned in sections 2 to 4 are not written in English or Chinese, a certified translation, in paper form, thereof in English or Chinese shall be submitted.

6 CERTIFIED COPY OF PARTICULARS AND DOCUMENTS

If any of the above particulars and documents mentioned in sections 2 to 5 are to be certified, the particulars and documents shall be certified by a solicitor, a commissioner for oaths or a notary public.

(Please note:

- (I) a reference to a solicitor is a reference to a person who is a solicitor qualified to act as such under the Legal Practitioners Ordinance (Cap. 159);
- (II) a commissioner for oaths means a commissioner for oaths duly appointed by the Chief Justice under any enactment in force in Hong Kong;
- (III) a notary public, in relation to Hong Kong, means a notary public registered by the Registrar of the High Court under section 40 of the Legal Practitioners Ordinance (Cap. 159), and in relation to a place outside Hong Kong, means a person duly authorized to take declarations under the law of that place.)

7 PARTICULARS AND DOCUMENTS IN ELECTRONIC FORM

If any of the above particulars and documents mentioned in sections 2 to 5 are submitted in electronic form and if signature(s) are required on the particulars and documents, the particulars and documents concerned shall be digitally signed. Such digital signature(s) shall be supported by recognized certificate(s).

8 RESPONSIBLE OFFICERS

The application form requires information about Responsible Officers of the Applicant. For the avoidance of doubt, the following persons are considered to be Responsible Officers:

- (i) the Applicant (in case the Applicant is an individual/sole trader);

- (ii) directors of the Applicant (in case the Applicant is a company and “director” means a director as defined in the Companies Ordinance (Cap. 32)); and
- (iii) any employees, contractors and sub-contractors with management oversight and perform functions that if not carried out properly, will materially and adversely affect either the reliability of a recognized certificate that the recognized CA has issued or its ability to perform its services relevant under the Ordinance.

9 SAMPLE STATUTORY DECLARATION AND AUTHORISATION FORMS

Four sample statutory declaration and authorisation forms are provided in the following pages for reference by Applicants.

These sample forms are –

- Sample 1 - Statutory Declaration for individuals or sole traders
- Sample 2 - Authorisation for individuals or sole traders
- Sample 3 - Statutory Declaration for companies
- Sample 4 - Authorisation for companies

They are not prescribed forms. Applicants are free to adopt and modify these forms as they think fit.

Statutory Declaration

- (1) I, [Applicant's Name in English], ([Applicant's Chinese Name]) ([Hong Kong Identity Card Number []/Passport Number []]) of [Applicant's Address] (the Applicant); and
- (2) I/We, [Name of the Individual Responsible Officer in English] ([Name of the Individual Responsible Officer in Chinese]) [(Hong Kong Identity Card Number []/Passport Number [])] of [Address of the Individual Responsible Officer]; [and]

[Name of the Director of the Corporate Responsible Officer in English] ([Name of the Director of the Corporate Responsible Officer in Chinese]) [(Hong Kong Identity Card Number []/Passport Number [])] of [Address of the Director of the Corporate Responsible Officer] being the director for and on behalf of [the Name of Corporate Responsible Officer] (Company Number []) of [the Address of the Corporate Responsible Officer] (the Responsible Officers)

hereby solemnly and sincerely declare that to the best of my or our knowledge and belief neither the Applicant nor any Responsible Officers hereby declaring and affirming:

- (a) has a conviction in Hong Kong or elsewhere of an offence for which it was necessary to find that he acted with deception, fraudulently, corruptly or dishonestly;
- (b) has been convicted of an offence under the Electronic Transactions Ordinance (Cap. 553) or the Electronic Transactions (Fees) Regulation (Cap. 553 sub. leg. A);
- (c) if the person is an individual, the fact that the person is an undischarged bankrupt or has entered into a composition or a scheme of arrangement or a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) within the 5 years preceding the date of the application; and
- (d) if the person is a body corporate, the fact that the person is in

liquidation, is the subject of a winding-up order or there is a receiver appointed in relation to it or it has entered into a composition or a scheme of arrangement or a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) within the 5 years preceding the date of the application.

and we make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Ordinance (Cap. 11).

Declared at)
.....)
.....)
Hong Kong SAR this.....)
Day of20.....)

[Applicant's Signature]

Before me
[Name of the solicitor/Notary Public/
Commissioner for Oaths]

[Signature of the solicitor/Notary
Public/ Commissioner for Oaths]

Declared at.....)
.....)
Hong Kong SAR this.....)
Day of20.....)

[Signature of the Individual
Responsible Officer]

Before me
[Name of the solicitor/Notary Public/
Commissioner for Oaths]

[Signature of the solicitor/Notary
Public/ Commissioner for Oaths]

[Declared at.....)
.....)
Hong Kong SAR this.....)
Day of20.....)

For and on behalf of [Name of the
Corporate Responsible Officer]
[Signature of the Director]
Director

Before me
[Name of the solicitor/Notary Public/
Commissioner for Oaths]

[Signature of the solicitor/Notary
Public/ Commissioner for Oaths]

Authorisation

- (1) I, [Applicant's Name in English], ([Applicant's Chinese Name]) ([Hong Kong Identity Card Number []/Passport Number []]) of [Applicant's Address] (the Applicant); and
- (2) I/We, [Name of the Individual Responsible Officer in English] ([Name of the Individual Responsible Officer in Chinese]) [(Hong Kong Identity Card Number []/Passport Number [])] of [Address of the Individual Responsible Officer]; [and]

[Name of the Director of the Corporate Responsible Officer in English] ([Name of the Director of the Corporate Responsible Officer in Chinese]) [(Hong Kong Identity Card Number []/Passport Number [])] of [Address of the Director of the Corporate Responsible Officer] being the director for and on behalf of [the Name of Corporate Responsible Officer] (Company Number []) of [the Address of the Corporate Responsible Officer] (the Responsible Officers)

hereby irrevocably authorise the Commissioner of Police of Hong Kong Special Administrative Region (HKSAR) or his equivalent in the overseas jurisdiction and his representatives, to release full particulars of any and all criminal convictions recorded against me and/or the company to Director of Information Technology Services of HKSAR or his representatives, throughout the application process and if recognition is granted, throughout the recognition period for purposes which are directly related to the application for recognition/application for renewal of recognition as a recognized certification authority, for purposes of regulating and monitoring the Applicant in relation to its certification authority business under the Electronic Transactions Ordinance (Cap. 553) and the Code of Practice for Recognized Certification Authorities, and for purposes of exercising the powers and functions granted to the Director of Information Technology Services under the Electronic Transactions Ordinance (Cap. 553).

[Signature]

.....

Signature of the Applicant

Date:

[Signature]

.....

Signature of the Responsible Officer

Date:

For and on behalf of [Name of the Corporate Responsible Officer]

[Signature]

Director

.....

Signature of the Responsible Officer

Date:

Statutory Declaration

- (1) I, [Name of the Director of the Corporate Applicant in English] ([Name of the Director of the Corporate Applicant in Chinese]) [(Hong Kong Identity Card Number []/Passport Number [])] of [Address of the Director of the Corporate Applicant] being the director for and on behalf of [Name of the Corporate Applicant] (Company Number []) of [the Address of the Corporate Applicant] (the Applicant); and
- (2) I/We, [Name of the Individual Responsible Officer in English] ([Name of the Individual Responsible Officer in Chinese]) [(Hong Kong Identity Card Number []/Passport Number [])] of [Address of the Individual Responsible Officer]; [and]

[Name of the Director of the Corporate Responsible Officer in English] ([Name of the Director of the Corporate Responsible Officer in Chinese]) [(Hong Kong Identity Card Number []/Passport Number [])] of [Address of the Director of the Corporate Responsible Officer] being the director for and on behalf of [Name of the Corporate Responsible Officer] (Company Number []) of [Address of the Corporate Responsible Officer] (Responsible Officers)

hereby solemnly and sincerely declare that to the best of my or our knowledge and belief neither the Applicant nor any Responsible Officers hereby declaring and affirming:

- (a) has been convicted in Hong Kong or elsewhere of an offence for which it was necessary to find that he acted with deception, fraudulently, corruptly or dishonestly;
- (b) has been convicted of an offence under the Electronic Transactions Ordinance (Cap. 553) or the Electronic Transactions (Fees) Regulation (Cap. 553 sub. leg. A);

- (c) if the person is an individual, the fact that the person is an undischarged bankrupt or has entered into a composition or a scheme of arrangement or a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) within the 5 years preceding the date of the application; and

- (d) if the person is a body corporate, the fact that the person is in liquidation, is the subject of a winding-up order or there is a receiver appointed in relation to it or it has entered into a composition or a scheme of arrangement or a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) within the 5 years preceding the date of the application.

and we make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Ordinance (Cap. 11).

Declared at.....)
.....)
.....)
Hong Kong SAR this.....)
Day of20.....)

For and on behalf of [Corporate
Applicant's Name]
[Director of the Corporate Applicant's
Signature]
Director

Before me
[Name of the solicitor/Notary Public/
Commissioner for Oaths]

[Signature of the solicitor/Notary
Public/ Commissioner for Oaths]

Declared at.....)
.....)
Hong Kong SAR this.....)
Day of20.....)

[Signature of the Individual
Responsible Officer]

Before me
[Name of the solicitor/Notary Public/
Commissioner for Oaths]

[Signature of the solicitor/Notary
Public/ Commissioner for Oaths]

Declared at.....)
.....)
Hong Kong SAR this.....)
Day of20.....)

For and on behalf of [Name of the
Corporate Responsible Officer]
[Signature of the Director]
Director

Before me
[Name of the solicitor/Notary Public/
Commissioner for Oaths]

[Signature of the solicitor/Notary
Public/ Commissioner for Oaths]

Authorisation

- (1) I, [Name of the Director of the Corporate Applicant in English] ([Name of the Director of the Corporate Applicant in Chinese]) [(Hong Kong Identity Card Number []/Passport Number [])] of [Address of the Director of the Corporate Applicant] being the director for and on behalf of [Name of the Corporate Applicant] (Company Number []) of [the Address of the Corporate Applicant] (the Applicant); and

- (2) I/We, [Name of the Individual Responsible Officer in English] ([Name of the Individual Responsible Officer in Chinese]) [(Hong Kong Identity Card Number []/Passport Number [])] of [Address of the Individual Responsible Officer]; [and]

[Name of the Director of the Corporate Responsible Officer in English] ([Name of the Director of the Corporate Responsible Officer in Chinese]) [(Hong Kong Identity Card Number []/Passport Number [])] of [Address of the Director of the Corporate Responsible Officer] being the director for and on behalf of [the Name of Corporate Responsible Officer] (Company Number []) of [the Address of the Corporate Responsible Officer] (the Responsible Officers)

hereby irrevocably authorise the Commissioner of Police of Hong Kong Special Administrative Region (HKSAR) or his equivalent in the overseas jurisdiction and his representatives, to release full particulars of any and all criminal convictions recorded against me and/or the company to Director of Information Technology Services of HKSAR or his representatives, throughout the application process and if recognition is granted, throughout the recognition period for purposes which are directly related to the application for recognition/application for renewal of recognition as a recognized certification authority, for purposes of regulating and monitoring the Applicant in relation to its certification authority business under the Electronic Transactions Ordinance (Cap. 553) and the Code of Practice for Recognized Certification Authorities, and for purposes of exercising the powers and functions granted to the Director of Information Technology Services under the Electronic Transactions Ordinance (Cap. 553).

For and on behalf of [Name of the Corporate Applicant]

[Signature]

Director

.....

Signature of the Corporate Applicant

Date:

[Signature]

.....

Signature of the Responsible Officer

Date:

For and on behalf of [Name of the Corporate Responsible Officer]

[Signature]

Director

.....

Signature of the Responsible Officer

Date: