

HONG KONG RELAXES COMPULSORY QUARANTINE ARRANGEMENTS FOR FINANCIAL SERVICES SECTOR

In a move to gradually ease quarantine arrangements for the financial sector the Securities and Futures Commission (SFC) on 28 May 2021 announced in a circular¹ that the Hong Kong government has designated certain categories of person in the financial services sector to be exempted from the compulsory quarantine arrangements in Hong Kong. The Hong Kong Monetary Authority and the Insurance Authority have also issued a similar exemption scheme on the same day.

INTRODUCTION

Senior executives of SFC licensed corporations (LCs) or their overseas affiliates who are fully vaccinated and meet the eligibility criteria may now apply for exemption from the compulsory quarantine arrangements when they return or travel to Hong Kong. Such personnel will be one of the following types of senior staff:

- i. Returning Executives – senior executives of an LC assuming global or regional roles who are returning to Hong Kong after travelling to foreign places primarily for the purposes of managing the group entities for which they have responsibility; or
- ii. Visiting Executives - global or regional heads or senior executives of financial institutions that an LC is affiliated with, who are travelling to Hong Kong primarily for the purposes of managing the LC.

It is important to note that the exemption scheme is subject to a quota, meaning that a maximum of two Returning Executives and two Visiting Executives can enter Hong Kong in each calendar month for each LC.

A key document required under the exemption scheme is the itinerary of the proposed exempted executive which should cover:

Key issues

- The exempted person is only allowed to travel for permitted essential business activities as set out in the itinerary. Meals with others and social activities must not be part of the itinerary.
- Sponsoring licensed corporations are required to submit an attestation form to the SFC, signed by the responsible officer or the compliance function manager-in-charge, at specific intervals of the exempted executive's trip/medical surveillance period.
- Contraventions with the exemption conditions would result in removal of the exemption status.

¹ [SFC Circular to Licensed Corporations Exemption for Senior Executives of Licensed Corporations - Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation \(Cap. 599C\) - Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places Regulation \(Cap. 599E\)](#) (Circular), 28 May 2021

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- i. for a Visiting Executive, the entire duration of the trip in Hong Kong; and
- ii. for a Returning Executive, the entire medical surveillance period² in Hong Kong.

The SFC does not specify the length of stay for a Visiting Executive in Hong Kong and this can be shorter than 14 days. During the self-isolation period, the exempted person is only allowed to travel for the purposes of undertaking the activities as set out in the itinerary that must only contain essential business activities. The SFC has made it very clear that meals with others and social activities must not be part of the itinerary and should not be included.

Application

The SFC has enclosed the [Exemption Scheme Application Form](#) (Application Form) at Appendix I to its Circular. The SFC reminds LCs that applications should be submitted by email to the SFC at least five working days prior to the Returning Executive's expected departure date from Hong Kong/the Visiting Executive's expected date of arrival in Hong Kong.

The supporting documents required upon application include a valid COVID-19 vaccination record issued by an approved body and an itinerary that contains information about the proposed exempted executive's arrival, departure, accommodation or designated quarantine hotel(s)³, and venues to be visited for essential business activities with dates and times of visits. The exempted person is only allowed to travel for the permitted activities set out in the itinerary endorsed by his or her sponsoring LC. The exempted person is required to stay at a designated hotel or accommodation for self-isolation and is only allowed to leave the premises with point-to-point transportation for the purposes of undertaking the permitted activities according to his/her itinerary.

Successful applicants will receive an electronic authorisation letter from the Financial Services and the Treasury Bureau containing certain important conditions and requirements applicable to the exemption that must be strictly adhered to by the sponsoring LCs. A set of sample conditions, which include the completion of a COVID-19 vaccination course⁴, COVID-19 tests (pre-departure, on arrival and post-arrival)⁵, point-to-point transportation⁶, self-isolation and medical surveillance, is set out in the "Notes to application" section of the Application Form.

Ongoing obligations of sponsoring LC

In addition to the itinerary information submitted upon application, the sponsoring LC is also expected to maintain the contact details of the persons who have met or will meet with the exempted executive in Hong Kong. The SFC should be notified of any changes to the itinerary upon the arrival of the exempted executive in Hong Kong and at the time when the sponsoring LC

² For a Returning Executive, the date of entry into Hong Kong will be treated as the commencement date for both the self-isolation period and medical surveillance period.

³ Accommodation or hotel quarantine requirement will be subject to the overarching quarantine requirements for inbound travellers, see <https://www.coronavirus.gov.hk/eng/high-risk-places.html>

⁴ A person is deemed to have completed a COVID-19 vaccination course if he or she arrives in Hong Kong on or after the 14th day after receiving the required dose(s) of a COVID-19 vaccine recognised by the Hong Kong government as specified in https://www.coronavirus.gov.hk/pdf/list_of_recognised_covid19_vaccines.pdf

⁵ For the latest information and requirements regarding testing arrangements, the SFC also refers LCs to the COVID-19 Thematic Website <https://www.coronavirus.gov.hk/eng/exempted-persons-faq.html>

⁶ The SFC has enclosed [Guidelines for vehicles providing point-to-point transportation](#) at Appendix III to its Circular.

submits the attestation form. In particular, a responsible officer (RO) or the manager-in-charge (MIC) of compliance function of the sponsoring LC is responsible for completing the attestation form and submitting it to the SFC by email every three working days or at the half-way point of the trip, whichever is earlier, and on the last day of the Visiting Executive's trip or the Returning Executive's medical surveillance period. A copy of the [attestation form](#) is provided at Appendix II to the Circular. The RO or MIC is responsible for the Visiting Executive or Returning Executive's activities during his/her duration of stay in Hong Kong or medical surveillance period.

The sponsoring LC will also need to comply with the [guidelines for vehicles providing point-to-point transportation](#), adhere to the [Department of Health's infection control guideline concerning the exempted persons in self-isolation](#) and report to the SFC as soon as possible if an exempted executive is confirmed or suspected to be infected with COVID-19 during his or her trip in Hong Kong and within 14 days after departing from Hong Kong (for a Visiting Executive) or during the medical surveillance period (for a Returning Executive).

Violation

The SFC emphasises that the senior management of the sponsoring LC is responsible for ensuring the information submitted as part of the exemption scheme are accurate and authentic.

The Application Form states that contravening with the exemption conditions will result in removal of their exemption status. In addition, if any exempted persons who are subject to self-isolation in a designated quarantine hotel room are found to have breached the self-isolation requirement, their exemption status will be removed and be sent to the government's Quarantine Centre for compulsory quarantine for 21 days, both with immediate effect. It is also an offence if an exempted person fails to observe any of the conditions. On conviction, an exempted person is liable to a fine of HK\$5,000 and to imprisonment for 6 months.

Issues for consideration

Hong Kong has one of the world's strictest COVID-19 quarantine requirements. Exemption from compulsory quarantine arrangements for inbound travellers is not new in Hong Kong and it currently applies to certain personnel including directors of companies listed on the Stock Exchange of Hong Kong⁷. Such exemption was originally only applicable to travellers from Mainland China and has recently been extended to qualified travellers from Taiwan, Macao and other places. It is encouraging to see that the government is ready to extend the exemption to senior executives for inbound travellers to LCs, and the banking and insurance sectors.

The government places heavy emphasis on the balance between the need to safeguard public health and a stable resumption of business travels for the

⁷ Exemption from Compulsory Quarantine Arrangement for inbound travellers from Mainland, Macao or Taiwan https://www.coronavirus.gov.hk/eng/599C-quarantine_exemption.html and Exemption from Compulsory Quarantine Arrangement for inbound travellers from Foreign Places https://www.coronavirus.gov.hk/eng/599E-quarantine_exemption.html

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financial sector. It is important that LCs get the necessary paperwork in order and ensure all the conditions and requirements are met.

The exemption scheme allows non-Hong Kong residents to enter Hong Kong which will benefit LCs with overseas senior executives who have not been able to travel to Hong Kong since the Hong Kong government imposed travel restrictions⁸.

"Senior executives" is not defined in the Circular and the SFC has not yet issued any FAQ for clarification. Whether one is considered a "senior executive" will depend on the particular circumstances but would likely be someone who is an RO or MIC who needs to come into or leave Hong Kong for the purpose of carrying out any supervisory functions. It is important that LCs should carefully consider the role of the proposed exempted executive when making the application.

With regard to "purposes of managing the group entities" in respect of a Returning Executive and the "purposes of managing the licensed corporation" in respect of a Visiting Executive, it is expected that the business activities for a Visiting Executive will include business activities for the purpose of managing the LC, attending meetings with the team, clients, investors, brokers or service providers, overseeing or supervising any regulated activities, providing training or concluding key contracts in relation to regulated activities. As for a Returning Executive, it is anticipated that the permitted activities include the individual's day-to-day business activities. It is important that LCs carefully plan the proposed exempted executive's itinerary and include appropriate and essential business activities for the SFC's approval.

⁸ For the latest restrictions and compulsory quarantine requirement on entering Hong Kong: <https://www.coronavirus.gov.hk/eng/inbound-travel.html>

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