

## Guidelines of Grandfathering Application for ECF-Compliance

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### Introduction

This document is developed to provide more specific guidelines for the grandfathering application of the ECF-Compliance at Core and Professional Levels. It includes information related to (A) Eligibility Criteria, (B) Application Procedure for Grandfathering, (C) ACOP, CCOP(GC) and CCOP(IIC) Certification Requirements and (D) Appeal Arrangement.

### A. Eligibility Criteria

#### 1. Scope of Application and Relevant Practitioner

The Enhanced Competency Framework (ECF) on Compliance is targeted at “Relevant Practitioners (RPs)”, engaged by an **Authorized Institution (AI)**<sup>1</sup>. The ECF-Compliance is intended to apply to staff whose primary responsibilities involve performing the compliance function (other than AML/CFT compliance).

Specifically, it is aimed at RPs located in the Hong Kong office of an AI who perform the compliance job roles as listed in the Table below.

Table – Job roles of the ECF-Compliance

	<b>Role 1 – General Compliance</b>	<b>Role 2 – Investment and Insurance Compliance</b>
Key Tasks	<ul style="list-style-type: none"> <li>• Assist senior management in meeting their responsibility in terms of understanding, monitoring and managing compliance related matters</li> <li>• Establish compliance review programmes to ensure compliance with applicable legal</li> </ul>	<ul style="list-style-type: none"> <li>• Report to and advise senior management on matters concerning compliance with relevant regulatory requirements including sales suitability, financial need analysis requirements and cross border selling restrictions</li> </ul>

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<sup>1</sup> An institution authorized under the Banking Ordinance to carry on the business of taking deposits. Hong Kong maintains a Three-tier Banking System, which comprises banks, restricted license banks and deposit-taking companies. Authorized institutions are supervised by the HKMA.

## Guidelines of Grandfathering Application for ECF-Compliance

	<p>and regulatory requirements and codes of conduct</p> <ul style="list-style-type: none"> <li>• Handle non-compliance issues and monitor the remedial actions taken</li> <li>• Develop and implement transactions monitoring and surveillance infrastructure on general banking activities</li> <li>• Maintain communication with internal stakeholders and liaise with regulators to understand potential risk areas and monitor regulatory developments</li> <li>• Provide training and advice to the business units on compliance related matters</li> </ul>	<ul style="list-style-type: none"> <li>• Investigate suspicious activities and handle non-compliance incidents whilst monitoring the remedial actions taken</li> <li>• Provide regulatory advice and analysis (and raise queries where appropriate) in relation to the life cycle of investment and insurance products</li> <li>• Develop and implement transactions monitoring and surveillance infrastructure on investment and insurance business activities</li> <li>• Liaise with local regulators on a regular basis to ensure open lines of communication, maintain reporting obligations and handle requests</li> </ul>
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The definition of RPs takes into account the differences among AIs in how compliance practitioners are assigned within their organisational structures. Functional roles, rather than the functional titles of staff members, are considered when assessing their qualification of RP. To facilitate the determination of whether a staff member falls under the scope of RPs, please refer to the key roles/ tasks outlined in Annex 1 as per the HKMA’s circular on [“Guide to Enhanced Competency Framework on Compliance”](#).

It should be noted that the ECF-Compliance is not intended to cover staff members performing the following functions:

- (a) Staff performing solely AML/CFT roles within an AI, as they are already subject to the ECF-AML/CFT. Please refer to the HKMA’s Guide to ECF on AML/CFT for details on these roles. In some cases, the responsibilities of compliance and AML/CFT roles may overlap. AIs should consider the relative weight of roles and responsibilities relevant to compliance and AML/CFT roles performed by staff members when assessing whether they should fall under the ECF-Compliance or ECF-AML/CFT or both;
- (b) Staff performing compliance functions within an AI that are not related to regulatory compliance (e.g. financial/accounting risk);
- (c) Staff performing specialised functions within an AI for ensuring compliance with prudential regulations (e.g. capital and liquidity requirements) and for risk areas that are covered under

## Guidelines of Grandfathering Application for ECF-Compliance

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- other ECF modules (e.g. liquidity risk, credit risk and operational risk that are covered under the ECF on Treasury Management, ECF on Credit Risk Management, and ECF on Operational Risk Management respectively);
- (d) Staff in the compliance function within an AI who are performing solely clerical and administrative duties or other incidental functions<sup>2</sup>;
  - (e) Staff in the legal or internal audit function of an AI;
  - (f) Senior management or relevant compliance committee members<sup>3</sup> other than the manager or person-in-charge of the compliance department; and
  - (g) Staff employed by an AI in Hong Kong whose primary function does not involve serving the AI in Hong Kong (e.g. regional office staff who are based in Hong Kong serving the compliance function for an overseas office) and staff based in the subsidiaries of AIs or overseas branches of AIs who are serving the compliance function for Hong Kong and/or overseas offices. That said, it should be noted that AIs have a responsibility to ensure that the relevant staff based in the subsidiaries and overseas branches receive adequate compliance training, including those applicable in overseas jurisdictions.

For the avoidance of doubt, a staff member is not required to work full time in the compliance function or perform all of the roles specified in the job description in order to be classified as an RP. AIs are expected to adopt a principles-based approach when determining whether a staff member with multiple job roles falls within the definition of RPs. If a staff member's job responsibility covers a majority of the key tasks detailed in ECF-Compliance's role description, the staff member will be considered in scope. AIs should refer to the key tasks listed in Annex 1 to assess the significance of the compliance role performed by the staff member. AIs are expected to justify their decisions made in this regard. The following is a non-exhaustive list of criteria that can be taken into consideration when assessing whether a staff member should be classified as an RP:

- Proportion of time spent on compliance related matters;
- Extent to which the staff member reports to senior management and/or governance committees on compliance related matters;
- Level of authority/seniority of the staff member in making decisions on compliance related matters; and
- Organisational structure of the AI. For example, a staff member with roles and tasks

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<sup>2</sup> Examples of other incidental functions include arranging meetings to discuss compliance related issues and preparing minutes of meetings that involve the discussion of compliance related issues

<sup>3</sup> Given that the main responsibilities of senior management or relevant compliance committee members (other than the manager or person-in-charge of the compliance department) may not be limited to managing the compliance risk of an AI, they are not captured within the scope of the ECF-Compliance. However, such persons may choose to acquire the ECF certification(s) which is (are) of interest and relevance to them.

## Guidelines of Grandfathering Application for ECF-Compliance

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dedicated to compliance may be working in other functions such as Legal or Risk Management.

Please refer to the HKMA circular on "[Guide to Enhanced Competency Framework on Compliance](#)" dated 27 September 2022 for more details.

### 2. Grandfathering Requirements

An RP may be grandfathered on a one-off basis based on his or her years of qualifying work experience. Such work experience need not be continuous. The detailed grandfathering requirements are as follows:

- (a) Core Level:
  - At least 3 years of relevant work experience\* in the general compliance function (for Role 1) or in the investment and/or insurance compliance function (for Role 2) as specified in Annex 1; and
  - Employed by an AI at the time of application.
  
- (b) Professional Level:
  - At least 8 years of relevant work experience\* in the general compliance function (for Role 1) or in the investment and/or insurance compliance function (for Role 2) as specified in Annex 1, of which at least 3 years must be gained from respective Professional Level job roles; and
  - Employed by an AI at the time of application.

\* In general, HKIB will consider whether the nature of work experience is substantially the same as that described in the compliance roles 1 and 2 in Annex 1 of the "[Guide to Enhanced Competency Framework on Compliance](#)". Relevant work experience is expected to be obtained from AIs. As for work experience related to compliance gained from non-bank financial institutions and/or regulators, (e.g. HKMA, SFC, IA, etc.) and professional service firms providing compliance related services will be considered on a case-by-case basis taking into account the level of involvement in performing compliance related key tasks of the ECF-Compliance. The work experience acquired from frontline business processes and operations, internal audit and risk management functions will also be considered on a case-by-case basis.

## Guidelines of Grandfathering Application for ECF-Compliance

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The majority of work experience gained from different job roles will affect the certification title (i.e. CCOP(GC) and CCOP(IIC)) upon grandfathering for Professional Level. For example, RPs with a majority of work experience gained from Role 1 – General Compliance will be granted the CCOP(GC) certification, while RPs with a majority of experience gained from Role 2 – Investment and Insurance Compliance will be granted the CCOP(IIC).

RPs who have sufficient work experience in Role 1 – General Compliance and Role 2 – Investment and Insurance Compliance can be granted both the CCOP(GC) and CCOP(IIC) certifications (i.e. 8 years of work experience in Role 1 and 8 years of work experience in Role 2).

Work experience gained in performing both compliance and AML/CFT functions will be considered on a case-by-case basis during the grandfathering period, taking into account factors such as the level of involvement in compliance job roles as compared to AML/CFT job roles. The following is a list of non-exhaustive examples of work experiences related to AML/CFT that can be taken into consideration during such an assessment:

- Interpreting regulatory requirements and performing impact analysis on the AI;
- Implementing and executing the compliance monitoring programmes;
- Reporting of regulatory breaches to senior management and/or regulators; and
- Designing controls and/or policies and procedures for managing AML/CFT related risks and meeting relevant regulatory requirements.

Existing RPs who meet the above criteria can submit their grandfathering applications to the HKIB, the administrator of the ECF-Compliance, from 1 February 2023 to 31 January 2024. A one-off grandfathering fee will apply.

For other individuals who have the relevant work experience but are not working in an AI or those staff of an AI who are not performing the compliance function during the grandfathering period, they may submit their applications to the HKIB for grandfathering within three months from the date of joining the compliance function of an AI and becoming RPs. However, they should have met all the applicable grandfathering criteria on or before 31 January 2024 as prescribed above.

Applications for grandfathering are handled and assessed by the HKIB. The HKIB may request that the applicant provide employment records or additional information to substantiate the application for grandfathering. Late application will not be accepted.

## Guidelines of Grandfathering Application for ECF-Compliance

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Upon grandfathering, the RP is required to apply for ACOP, CCOP(GC) and/or CCOP(IIC) and to renew the relevant certification annually with the HKIB.

### B. Application Procedure for Grandfathering

Please follow the application procedure as listed below:

- (a) Complete all necessary fields in the relevant Grandfathering and/or Certification Application Form for ECF-Compliance, including applicant's signature and HR endorsement in relevant sections.
- For Core Level: COM-G-009
  - For Professional Level: COM-G-010

***Note: Applicants are required to apply for both Grandfathering and Certification at the same time by using the above Application Form. Please also read the Guidelines of Certification Application for ECF-Compliance (COM-G-008) if Grandfathering and Certification are applied at the same time.***

- (b) Obtain endorsement from the Human Resources Department (HR) of the concerned Authorized Institution(s) with signature of Head of HR or equivalent and company chop on the Annex of the Grandfathering and/or Certification Application Form – HR Department Verification Form on Key Roles/Responsibilities for Compliance Practitioners. Applications can only be accepted with HR endorsement included.
- (c) Applicants are required to fill in **ONE** completed HR Department Verification Form for **EACH** relevant position/functional title in the application.

Als are expected to support their staff's application for grandfathering and certification. Regarding information related to a Relevant Practitioner's previous employment(s), current employer should provide necessary assistance to Relevant Practitioners in the latter's applications for grandfathering or ECF certification (e.g., by confirming whether such information is consistent with the curriculum vitae provided by the Relevant Practitioner at the time of job application).

If required, the HKIB may request applicants to provide employment records or additional information to substantiate their applications for grandfathering.

## Guidelines of Grandfathering Application for ECF-Compliance

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(d) Read the [Privacy Policy Statement](#) set out on the HKIB website before submitting the application.

(e) Send the completed Application Form with the HR department's endorsement, relevant supporting documents and cheque/payment evidence to HKIB within the required time frame.

- **Grandfathering Application Period**  
The HKIB will accept an application for grandfathering by current Relevant Practitioners of AIs from **1 February 2023**. Completed application with all required supporting documents must be submitted to the HKIB office. The deadline for application will be **31 January 2024**. Late submission and applications with incomplete information will **NOT** be accepted.
- **Fee Payable**  
For details, please refer to the Fee Table of the Grandfathering and/or Certification Application Form for ECF-Compliance.
- **Payment Method**
  - Paid by Employer
  - A crossed cheque or e-cheque made payable to "**The Hong Kong Institute of Bankers**". Post dated cheques will not be accepted
  - Credit card (Visa or Mastercard)

## Guidelines of Grandfathering Application for ECF-Compliance

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- Submission of Application

Please complete and submit the **SIGNED** Application Form together with the required documents via email to [cert.gf@hkib.org](mailto:cert.gf@hkib.org) or by post/in person to The Hong Kong Institute of Bankers (HKIB) at the following address:

“Grandfathering and/or Certification Application for ECF-Compliance”

Department of Professional Assessment and Certification

The Hong Kong Institute of Bankers

3/F Guangdong Investment Tower

148 Connaught Road Central, Hong Kong

***Note: Please ensure sufficient postage is provided when sending out the required documents.***

- Approval

It is expected to take approximately **2 MONTHS** for the HKIB to process grandfathering applications with the completed submission of documents and information under normal circumstances. If certification is also applied together with grandfathering by using the combined application form, the processing time will be around approximately **3 MONTHS**.

Once grandfathering and/or certification has been granted, the Relevant Practitioner will be notified via email.

***Note: The approval of grandfathering is subject to the final decision of the HKIB.***

Please refer to the respective Grandfathering and/or Certification Application Forms for ECF-Compliance (COM-G-009 and COM-G-010) for details and read the Privacy Policy Statement set out on the HKIB website before applying.

### C. ACOP, CCOP(GC) and CCOP(IIC) Certification Requirements

For details, applicants can refer to the Guidelines of Certification Application for ECF-Compliance (COM-G-008).



## Guidelines of Grandfathering Application for ECF-Compliance

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### D. Appeal Arrangement

The HKIB will appoint a Grandfathering of ECF-Compliance Appeal Committee (Appeal Committee) as necessary, to handle the appeal of grandfathering applications. The appeal mechanism applies if a formal written notice of appeal, specifying the ground, is sent to the HKIB by the grandfathering applicant whose application has been declined by the HKIB. There will be an administrative fee for the appeal application.

(a) Grandfathering Appeal Procedure

Applicants may request in writing for any appeal against their grandfathering result **within 1 month** after the issuance of grandfathering declination letter. An administrative fee would be applied. Late appeal applications will not be accepted.

The appellant may be asked to attend the appeal hearing by the Appeal Committee or provide extra supporting documents if the Committee has any questions, they wish to ask the appellant. The Appeal Committee meeting will be conducted as required. The Appeal Committee shall decide to either accept the appeal or decline the appeal.

It is expected to take **90 days** for HKIB to process grandfathering appeal application under normal circumstances. The appellant will be notified of the decision by the Appeal Committee in writing and a document will be signed by the Head of Professional Assessment & Certification and Certified Banker of HKIB as a record. Applicants will be informed of their appeal results by post and/or email and with written notice for an approved case.

(b) Fee Payable

An administrative fee of HKD1,000 is required for the appeal application.

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### Annex 1: ECF-Compliance: Key Roles and Tasks for Relevant Practitioners

(Quoted from the Annex 1 [“Guide to Enhanced Competency Framework on Compliance”](#))

Job Roles	Role 1 - (General Compliance)	Role 2 - (Investment and Insurance Compliance)
	<b>Core Level</b> <i>(For entry to junior level staff with less than 5 years of work experience)</i>	
Examples of functional title	<b>(for reference only)</b> <b>Compliance Officer, Compliance specialist, Associate/Assistant Compliance Manager</b>	
Key Tasks	<ul style="list-style-type: none"> <li>• Assist in drafting, revising and updating the AI’s compliance policies, procedures, guidelines and compliance related documents to ensure congruence with its legal and regulatory obligations and the AI’s internal requirements</li> <li>• Assist in performing compliance testing and other reviews according to the compliance monitoring programmes to ensure the AI’s compliance with applicable legal and regulatory requirements, and codes of conduct</li> <li>• Assist in performing compliance assessments and reviews on business activities as mandated by the compliance function to identify, assess and monitor compliance risk and mitigate any conduct and reputational risk issues</li> <li>• Assist in compiling reports on compliance related matters and/or transactions monitoring to senior management</li> <li>• Conduct initial analysis and facilitate the investigation of suspicious activities and report any possible breaches of laws and regulations in business activities</li> <li>• Conduct initial investigation of non-compliance issues and monitor the status of remedial actions taken</li> <li>• Assist in providing general advice on laws, rules and standards to the business units and senior management</li> <li>• Assist in drafting, revising and updating whistleblowing policies and procedures for identifying and reporting potential and actual non-compliance issues</li> <li>• Maintain regular communication and interaction with operational risk, market risk and credit risk colleagues to understand current areas of heightened operational risk, market risk and credit risk. Assist line managers in maintaining these relationships to ensure a coordinated approach to managing risk in the organisation</li> <li>• Assist in liaising with local regulators on a regular basis to ensure open lines of communication, maintain reporting obligations and handle requests</li> <li>• Handle information requests from local regulators and coordinate with respective business units in responding to regulatory enquiries</li> <li>• Perform research and gap analysis on key legal and regulatory changes both in Hong Kong and relevant overseas jurisdictions</li> <li>• Prepare training materials on compliance related matters and assist in providing training to business departments/operation units in Hong Kong</li> </ul>	

## Guidelines of Grandfathering Application for ECF-Compliance

Job Roles	Role 1 - (General Compliance)	Role 2 - (Investment and Insurance Compliance)
	<b>Professional Level</b> <i>(For staff taking up middle to senior level positions in the compliance function with 5+ years of work experience)</i>	
<b>Examples of functional title (for reference only)</b>	<b>General Compliance Manager, Regulatory Compliance Manager</b>	<b>Investment and Insurance Compliance Manager</b>
<b>Key Tasks</b>	<ul style="list-style-type: none"> <li>• Develop, review, evaluate and update the AI’s compliance policies, procedures, guidelines and compliance related documents to ensure congruence with its legal and regulatory obligations and the AI’s internal requirements</li> <li>• Establish and review compliance monitoring programmes to ensure the AI’s compliance with applicable legal and regulatory requirements, and codes of conduct</li> <li>• Conduct independent compliance assessments and reviews as mandated by the compliance function to identify, assess and monitor compliance risk and mitigate any conduct and reputational risk issues</li> <li>• Report to and advise senior management on compliance related matters</li> <li>• Investigate suspicious activities and report any possible breaches of laws and regulations in business activities</li> <li>• Analyse areas of non-compliance and identify actions for improvement</li> <li>• Monitor the effectiveness of any remedial actions taken</li> <li>• Provide advice and recommendations on laws, rules and standards to the business units</li> </ul>	<ul style="list-style-type: none"> <li>• Develop, review, evaluate and update the AI’s compliance policies, procedures, guidelines and compliance related documents to ensure congruence with its legal and regulatory obligations and the AI’s internal requirements</li> <li>• Establish and review compliance monitoring programmes to ensure the AI’s compliance with applicable legal and regulatory requirements, and codes of conduct covering the selling process</li> <li>• Report to and advise senior management on compliance related matters including sales suitability, financial need analysis and cross border selling restrictions</li> <li>• Investigate suspicious activities and report any possible non-compliance incidents related to AI’s investment and insurance business activities</li> <li>• Identify and handle non-compliance issues and monitor the effectiveness of any remedial actions taken</li> <li>• Provide advice on business initiatives, product development, and review and approve marketing materials for dissemination</li> </ul>

## Guidelines of Grandfathering Application for ECF-Compliance

Job Roles	Role 1 - (General Compliance)	Role 2 - (Investment and Insurance Compliance)
	<b>Professional Level</b> <i>(For staff taking up middle to senior level positions in the compliance function with 5+ years of work experience)</i>	
<b>(Continued)</b> <b>Key Tasks</b>	<ul style="list-style-type: none"> <li>• Maintain a strong understanding of new and emerging products and services and the compliance implications on the AI of such products and services</li> <li>• Develop, review, evaluate and update escalation and whistleblowing policies and procedures for identifying and reporting potential and actual noncompliance issues</li> <li>• Maintain regular communication and interaction with operational risk, market risk and credit risk colleagues to understand current areas of heightened operational risk, market risk and credit risk</li> <li>• Liaise with local regulators on a regular basis to ensure open lines of communication, maintain reporting obligations and handle requests</li> <li>• Develop and implement transactions monitoring and surveillance infrastructure on general banking activities</li> <li>• Track and capture key legal and regulatory changes both in Hong Kong and relevant overseas jurisdictions and notify relevant stakeholders to ensure the business operations of the AI could meet the relevant requirements</li> <li>• Provide advice and compliance related training to business units in Hong Kong.</li> </ul>	<ul style="list-style-type: none"> <li>• Provide advice and guidance on compliance related matters to relationship managers and investment and insurance product managers</li> <li>• Liaise with local regulators on a regular basis to ensure open lines of communication, maintain reporting obligations and handle requests</li> <li>• Develop and implement transactions monitoring and surveillance infrastructure on investment and insurance business activities</li> <li>• Track and capture key local and regulatory changes both in Hong Kong and relevant overseas jurisdictions and notify relevant stakeholders to ensure the business operations of the AI could meet the relevant requirements</li> <li>• Provide advice and training on investment and insurance compliance to business units in Hong Kong</li> </ul>