

Form A

Application Form for forming/entering into an association which requires permission under Paragraph 13.1 (h) of the Code of Conduct (“the Code”)¹

1. Name of practising barrister:

2. Year of admission:

3. Name and address of the association which the barrister intends to form/join:

Name: _____ (in English and Chinese)

Address: _____

(in English and Chinese)

4. Position which the barrister intends to occupy in the association:

(Partner/consultant/employee/other position, please specify)

5. Number of practising lawyers in the association:

6. Whether the barrister intends to enter into any fee-sharing arrangement with any of the (a) Hong Kong admitted solicitor; (b) Hong Kong registered foreign lawyer; or (c) member of other profession in the association, if so, terms of such fee-sharing arrangement:

¹ Please use Form A if a barrister intends to form/enter into an association with any Hong Kong admitted solicitor, Hong Kong registered foreign lawyer, or a firm of solicitors or foreign lawyers practising in Hong Kong or with members of any other professions

Yes/No²

If the answer is “Yes”, terms of the fee-sharing arrangement:

7. If the answer to Question 6 above is “Yes”, please provide the name(s) of all (a) Hong Kong admitted solicitor(s); (b) Hong Kong registered foreign lawyer(s); and (c) member(s) of other profession³ in the association and their position(s) in the association:

Hong Kong admitted solicitor(s): _____

Hong Kong registered foreign lawyer(s): _____

Member(s) of other profession: _____ (please specify the profession)

Date: _____

Signature of barrister: _____

² Please delete where appropriate

³ Namely, members of professional bodies which are authorised to instruct barristers directly without the intervention of a solicitor in Hong Kong as set out in Annexes 3 and 4 of the Code

Form B
Application Form for remaining in an association which requires
permission under Paragraph 13.1 (h) of the Code⁴

1. Name of practising barrister:

2. Year of admission:

3. Name and address of the association which the barrister intends remain in:

Name: _____ (in English and Chinese)

Address: _____

(in English and Chinese)

4. Position which the barrister currently holds in the association:

(Partner/consultant/employee/other position, please specify)

5. Number of practising lawyers in the association:

⁴ Please use Form B if a barrister has formed/entered into an association and thereafter one or more Hong Kong admitted solicitor(s), Hong Kong registered foreign lawyer(s), firm(s) of solicitors or foreign lawyers practising in Hong Kong or member(s) of any other professions join the association, and the barrister wishes to remain in the association

- 6. Whether the barrister intends to enter into any fee-sharing arrangement with any (a) Hong Kong admitted solicitor; (b) Hong Kong registered foreign lawyer; or (c) member of other profession in the association, if so, terms of such fee-sharing arrangement:**

Yes/No⁵

If the answer is “Yes”, terms of the fee-sharing arrangement:

- 7. If the answer to Question 6 above is “Yes”, please provide the name(s) of all (a) Hong Kong admitted solicitor(s); (b) Hong Kong registered foreign lawyer(s); and (c) member(s) of other profession⁶ in the association and their position(s) in the association:**

Hong Kong admitted solicitor(s): _____

Hong Kong registered foreign lawyer(s): _____

Member(s) of other profession: _____ (please specify the profession)

Date: _____

Signature of barrister: _____

⁵ Please delete where appropriate

⁶ Namely, members of professional bodies which are authorised to instruct barristers directly without the intervention of a solicitor in Hong Kong as set out in Annexes 3 and 4 of the Code

EXPLANATORY NOTES

1. It is of paramount importance that barristers maintain complete professional independence as sole proprietors in the conduct of their Hong Kong practice⁷. Therefore, as a general rule provided in Paragraph 5.15 of the Code, practising barristers are not allowed to enter into any partnership, employment or other similar relationship with another practising barrister or any other person in connection with his practice. Further, practising barristers are not allowed to share professional fees save in the limited circumstances provided in Paragraphs 6.25 and 6.26 of the Code.
2. As an exception to the above general rule, Chapter 13 of the Code allows practising barristers to carry out, *inter alia*, non-Hong Kong practice⁸ (whether in or outside Hong Kong) subject to the provisions in Paragraph 13.1 therein. In order to ensure that any association which practising barristers form/enter into for the purposes of their non-Hong Kong practice would not undermine their professional independence in the conduct of their Hong Kong practice, Paragraph 13.1 (h) requires barristers who intend to form, enter into or remain in an association with any Hong Kong admitted solicitor, Hong Kong registered foreign lawyer, or a firm of solicitors or foreign lawyers practising in Hong Kong or with members of any other professions (“the **Relevant Persons**”) to seek prior permission of the Bar Council. The Bar Council may impose conditions in granting such permission.
3. The Bar Council’s primary consideration in deciding whether to grant the said permission is whether the practising barrister’s intended association/association would involve any fee-sharing arrangement with the Relevant Persons which would undermine, or would reasonably be seen as undermining, his professional independence in relation to his Hong Kong practice or would involve a risk of breach of the conflict of interest rules in the Code. The Bar Council will take into account, *inter alia*, the following factors:

⁷ “Hong Kong practice” as defined in Paragraph 2.2 (aca); Paragraph 10.3 (b) of the Code provides that “A practising barrister must not...(b) permit his absolute independence, integrity and freedom from his personal interests or external pressures to be compromised or do anything in such circumstances as may lead to any inference that his absolute independence, integrity and freedom from his personal interests or external pressures may be compromised.”

⁸ “non-Hong Kong practice” as defined in Paragraph 2.2 (aca)

- 3.1. Whether the association would involve a fee-sharing arrangement between the barrister and one or more of the Relevant Persons;
- 3.2. The terms of the fee-sharing arrangement;
- 3.3. Whether the fee-sharing arrangement would render the barrister so closely associated with the Relevant Persons such that the barrister cannot, or it would be reasonably perceived that he cannot, maintain professional independence in his Hong Kong practice or a risk that the barrister would be in breach of the conflict of interest rules in the Code.
4. In the event that the Bar Council considers the practising barrister's intended association/association would involve a fee-sharing arrangement between the barrister and the Relevant Person(s) which would undermine, or would reasonably be seen as undermining, his professional independence in relation to his Hong Kong practice, the Bar Council may grant permission for the practising barrister to form, enter into or remain in the association on the condition that the barrister shall not accept instructions from the Relevant Persons in connection with his Hong Kong practice so long as the barrister and the Relevant Person(s) remain in the association.
5. Upon receipt of the application form, the Bar Council may require further information on the intended association from the barrister who are obliged to supply such information under Paragraph 13.1 (h) of the Code.
6. Members are reminded that they have an ongoing obligation to comply with Paragraph 13.1 (h) of the Code. Before forming/joining an association for the purposes of providing legal services falling within Paragraphs 13.1 (a) to (e) of the Code, a Member should ascertain if the association comprises any Relevant Persons and seek permission from the Bar Council if required by making use of Form A above. In the event that any of the Relevant Persons joins the association after a Member has entered into a relationship with that association, the Member should seek the permission of the Bar Council at the earliest opportunity by making use of Form B above.

PERSONAL INFORMATION COLLECTION STATEMENT

Your personal data collected using this form and in response to any request by the Bar Council for further information in relation to the application for membership (the “**Data**”) will be used for the purposes of :-

- (1) the processing of your application for membership of the Hong Kong Bar Association, the management of your membership and related matters;
- (2) the directory published in the Bar List for the purpose of facilitating the public and members of the Hong Kong Bar Association in identifying practising barristers and barristers’ chambers in Hong Kong registered with the Hong Kong Bar Association;
- (3) conducting any disciplinary investigation or proceedings against you;
- (4) enabling the Hong Kong Advocacy Training Council to fulfil its aims.

It is voluntary for you to provide the data requested in this form. However, if you fail to provide data requested in this form, the Hong Kong Bar Association may not be able to process the application.

The data will be disclosed to members of the Hong Kong Bar Association, the staff members of the Secretariat of the Hong Kong Bar Association, the members and employees of the Hong Kong Advocacy Training Council, and the public, as the case may be and to the extent required for carrying out the above purposes.

You are entitled to request access to and correction of the data. Any such request should be made by completing the Data Access Request Form (OPS003) specified under the Personal Data (Privacy) Ordinance (Cap. 486) and sending it to :-

The Honorary Secretary, the Bar Secretariat, LG2, High Court Building, 38 Queensway, Hong Kong.

A fee is chargeable by the Hong Kong Bar Association for complying with a data access request as permitted under the Personal Data (Privacy) Ordinance (Cap. 486).

The Privacy Policy Statement of the Hong Kong Bar Association is available on its website at www.hkba.org.