



THE  
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OF HONG KONG  
香港律師會

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Panel on Administration of Justice and  
Legal Services of the Legislative Council  
Legislative Council Secretariat  
Legislative Council Complex,  
1 Legislative Council Road,  
Central,  
Hong Kong

**BY HAND**

Dear Sirs,

Re: Rule 4B(2) of the Solicitors' Practice Rules ("SP Rules")  
Rule 8(4) of the Foreign Lawyers Practice Rules ("FLP Rules")

The Law Society has recently reviewed the SP Rules and the FLP Rules.

SP Rules

1. Rule 4B(2) of the SP Rules provides as follows:

*"No firm shall, except with the written approval of the Council, knowingly employ any unqualified person who is in the part-time or full-time employment of another firm."*

2. Under rule 1A of the SP Rules, a "firm" means a firm as from time to time constituted, whether of a sole practitioner or as a partnership carrying on the business of practising as a solicitor or as solicitors and whether conducted from one address or more than one address.

3. Under section 2(1) of the Legal Practitioners Ordinance ("the Ordinance"), an "unqualified person" means a person who is not a solicitor.

FLP Rules

4. Under rule 8(1) of the FLP Rules, an "unqualified person" means a person who is not a foreign lawyer.

## The Law Society of Hong Kong

5. There is no corresponding provision of rule 4B(2) of the SP Rules in the FLP Rules. There is no express provision in the FLP Rules prohibiting a foreign firm's employee who is not a foreign lawyer to work full-time or part-time in another foreign firm or Hong Kong firm. The Council resolved to introduce an express provision in the FLP Rules prohibiting the employment of an unqualified person who is in the part-time or full-time employment of another firm except with the prior approval of the Council.
6. A foreign lawyer employed by a Hong Kong firm is regarded as an unqualified person under section 2(1) of the Ordinance. He is not regarded as an unqualified person under rule 8(1) of the FLP Rules if he is employed by a foreign firm. The Council resolved that a foreign lawyer employed in a Hong Kong firm should also be prohibited against being employed by a foreign firm at the same time unless these firms formed an Association under section 39C of the Ordinance or such employment has been approved by the Council in exceptional circumstances.
7. The proposed marked-up new rule 8(4) of the FLP Rules and the proposed marked-up amendments to rule 4B(2) of the SP Rules are attached as **Annexure 1**.
8. The Chief Justice has given his approval-in-principle of the proposed amendments. He directed the Law Society to consult the Legislative Council Panel on Administration of Justice and Legal Services. The Judiciary's letter to the Law Society of 26 June 2013 is at **Annexure 2**.

Please let us have your comments on the proposed amendments.

Yours faithfully,



Angela Li  
Assistant Director,  
Regulation and Guidance  
Email: [adrg@hklawsoc.org.hk](mailto:adrg@hklawsoc.org.hk)

Enclosures

#1342326

PROPOSED AMENDMENTS TO  
RULE 4B(2) OF THE SOLICITORS' PRACTICE RULES

4B. Control of employment of unqualified persons

- (1) A firm shall not employ unqualified persons in a number more than 6 plus 8 times the number of resident principals and solicitors employed full-time in that firm.
- (2) No firm shall, except with the written approval of the Council, knowingly employ any unqualified person who is in the part-time or full-time employment of another firm **or foreign firm**.
- (3) For the purpose of this rule -
  - (a) persons employed otherwise than by a firm (such as by a service company set up by the principal or principals of the firm) but for the purposes of the firm shall be deemed to be persons employed in that firm;
  - (b) in calculating the number of unqualified persons employed in a firm, trainee solicitors and full-time law students working full-time or part-time during holidays and breaks or part-time during the academic year shall not be taken into account; and
  - (c) in calculating the number of resident principals and solicitors employed full-time in a firm, a solicitor shall not be taken into account in respect of more than one firm.
- (4) A firm shall ensure that every name card of an employee who is an unqualified person, being a card which bears the name of the firm, includes a clear description of the capacity in which the employee is being employed.

## An extract of the Foreign Lawyers Practice Rules

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### 8. Control of employment of unqualified persons

- (1) A principal of a foreign firm shall ensure that the firm does not employ persons who are not foreign lawyers ("unqualified persons") in a number more than 6 plus 8 times the number of resident principals and foreign lawyers employed full-time in that firm.
- (2) For the purpose of this section -
  - (a) persons employed otherwise than by a foreign firm (such as by a service company set up by the principal or principals of the firm) but for the purposes of the firm shall be deemed to be persons employed in that firm;
  - (b) in calculating the number of unqualified persons employed in a foreign firm, full-time law students working part-time or full-time during holidays and breaks or part-time during the academic year shall not be taken into account; and
  - (c) in calculating the number of resident principals and foreign lawyers employed full-time in a foreign firm, a foreign lawyer shall not be taken into account in respect of more than one firm.
- (3) A principal of a foreign firm shall ensure that every name card of an employee who is an unqualified person, being a card which bears the name of the foreign firm, includes a clear description of the capacity in which the employee is being employed.

**(4) No foreign firm shall, except with the written approval of the Council, knowingly employ any unqualified person who is in the part-time or full-time employment of another Hong Kong firm or foreign firm.**

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**Administrative Assistant  
to the Chief Justice**

JUDICIARY  
HONG KONG

**香港司法機構**

終審法院首席法官政務助理

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## ANNEXURE 2

26 June 2013

Ms Angela Li  
Assistant Director of Regulation and Guidance  
The Law Society of Hong Kong  
3/F, Wing On House  
71 Des Voeux Road  
Central, Hong Kong

Dear Ms Li,

**Proposed Amendments to  
Rule 4B(2) of the Solicitors' Practice Rules (Cap 159H) and  
New Rule 8(4) of the Foreign Lawyers Practice Rules (Cap 159R)**

Thank you for your letters of 14 December 2012, and 14 and 23 May 2013.

2. The Chief Justice has given approval-in-principle of the proposals attached to your letter of 14 December 2012.
3. We note the consultations that you have carried out so far. The Chief Justice has asked that you consult the Legislative Council Panel on Administration of Justice and Legal Services on the proposals before seeking his final approval.

Yours sincerely,

(Ms Wendy Cheung)  
for Administrative Assistant  
to the Chief Justice

c.c. Department of Justice (Attn: Miss Amy Chan, Legal Policy Division)