

LEGISLATIVE COUNCIL BRIEF

Securities and Futures Ordinance
(Cap. 571)

Companies Ordinance
(Cap. 622)

Securities and Futures and Companies Legislation (Uncertificated Securities Market Amendment) Bill 2014

INTRODUCTION

A At the meeting of the Executive Council on 3 June 2014, the Council **ADVISED** and the Chief Executive **ORDERED** that the Securities and Futures and Companies Legislation (Uncertificated Securities Market Amendment) Bill 2014 (“the Bill”), at Annex A, should be introduced into the Legislative Council (“LegCo”) to enable the introduction of an uncertificated securities market regime (“the proposed regime”).

JUSTIFICATIONS

Current Paper-based Securities Regime in Hong Kong

2. Under the existing paper-based securities market regime in Hong Kong, the law requires the issue of paper certificates and the use of paper instruments of transfer for certain securities.¹ In the case of securities that are listed on the Stock Exchange of Hong Kong (“SEHK”), interests

¹ Currently, the Companies Ordinance (“CO”) (Cap. 622) requires the issue of paper certificates and the use of paper instruments of transfer in respect of shares and debentures. The Stamp Duty Ordinance (Cap. 117) requires the use of paper instruments of transfer in respect of units in a unit trust scheme. To take forward the uncertificated securities market initiative, some amendments were introduced under Part 7 of the Companies (Amendment) Ordinance 2010 (Ord No 12 of 2010), and then subsequently incorporated (as appropriate) into Schedule 8 to the CO, to remove, or provide exceptions to, the limitations arising from the provisions in the CO that compel the use of paper documents of title and paper instruments of transfer in relation to shares and debentures. The Government had made clear that these amendments to the CO would only come into operation when the market is ready to implement an uncertificated securities market model and that further and more detailed requirements would still need to be worked out.

in the securities can be transferred without paper through the Central Clearing and Settlement System (“CCASS”), which is an immobilised securities system² operated by Hong Kong Securities Clearing Company Limited (“HKSCC”). So long as the securities stay in CCASS, legal title to them remains vested in HKSCC Nominees Limited. Investors who elect to hold securities in CCASS therefore hold only a beneficial interest in the securities – they are not registered holders and do not hold legal title. Likewise, when investors transfer securities in CCASS, they transfer only the beneficial interest in the securities – legal ownership of the securities remains with HKSCC Nominees Limited.

Benefits of an Uncertificated Securities Market Regime

3. Under the proposed regime, legal ownership in securities can be held and transferred without paper documents. This can bring the following main benefits -

- (a) **To modernise the financial infrastructure of Hong Kong and enhance overall efficiency of our securities market.** By further reducing the use of paper, we can enable straight-through processing and enhance efficiency and the turnaround time for transactions.
- (b) **To enhance corporate governance, and ultimately secure an improved level of investor choice and protection.** By enabling direct ownership, shareholder transparency can be enhanced and corporate communications and corporate action services can be carried out directly and more efficiently. Investors can also have the option to hold their securities in uncertificated form and in their own name, thus securing an improved level of investor choice and protection which is not available under the current immobilised securities system.
- (c) **To ensure that Hong Kong is on a par with other leading markets.** Markets including Australia, Mainland China, Japan and the UK have already implemented an uncertificated securities market. In addition, the European Parliament has recently passed a legislative resolution which mandates that

² An immobilised securities system is one in which paper certificates for securities are issued and deposited with a central depository which is electronically linked with a settlement system. The securities are immobilised in the central depository in the sense that the paper certificates are held by the depository at all times without the need to move the paper certificates or to re-register the securities to effect a transfer within the system.

transferable securities issued after 1 January 2023 shall be in dematerialised (i.e. paperless) form and all transferable securities shall be in dematerialised form from 1 January 2025. This, together with other benefits of improved efficiency, enhanced corporate governance and better investor protection, will reinforce Hong Kong's competitiveness and position as a leading market. It can also provide greater opportunities for future linkages with other uncertificated securities markets.

Legislative and Regulatory Framework

4. The proposed regime is intended to apply only to securities that are listed, or to be listed, on a recognized stock market³. It will not apply to unlisted securities (such as shares or debentures of private companies). Moreover, the proposed regime will be implemented in phases, and the initial phase will only cover shares that are listed or to be listed on a recognized stock market. Other securities (e.g. debentures and unit trusts) that are listed or to be listed on such a stock market will be covered at a later stage. This is because, compared to other securities, shares raise the most concerns in terms of corporate governance and investor protection. The proposed regime will apply to shares of Hong Kong companies, and non-Hong Kong companies as and when the necessary approvals or laws of their home jurisdictions are in place. We are initiating discussion on this with the Mainland, the United Kingdom, Cayman Islands and Bermuda, while proceeding with the current legislative exercise in Hong Kong, so that companies from as many jurisdictions as possible may be covered by the proposed regime when it starts to operate.

5. The implementation of this initiative will necessitate amendments to mainly the Securities and Futures Ordinance ("SFO") and the Companies Ordinance ("CO"). The broad framework for the regulation of the uncertificated securities market will be set out in those two pieces of primary legislation, while details relating to operational matters and the regulation of the uncertificated securities market environment will be set out in new subsidiary legislation to be made under the SFO ("rules"). The main features of the proposed regime and consequently the major legislative proposals are summarised in the following paragraphs.

³ "Recognized stock market" is defined under the Securities and Futures Ordinance (Cap. 571) ("SFO") as a stock market operated by a company recognized as an exchange company under section 19(2) of the SFO.

Shares to be specified as Prescribed Securities

6. The amendments to the SFO will apply to all securities that are, or are to be, listed on a recognized stock market, and specified in the legislation. We will introduce a new term “prescribed securities” in the SFO to refer to such securities, and they will be specified by class or description in a new Schedule 3A to the SFO. Since the initial focus of the proposed regime will be on shares, the new Schedule 3A will only specify shares at the outset. The SFO will be amended to empower the Securities and Futures Commission (“SFC”) to amend Schedule 3A, after consultation with the Financial Secretary, by means of subsidiary legislation subject to negative vetting by LegCo.

Dual system for securities market

7. The uncertificated securities market initiative will be implemented in phases, and there will be a transitional period during which a dual system will operate, i.e. during which the existing paper-based system will continue to operate in parallel with the proposed uncertificated securities market system. Investors will be able to choose whether to hold their securities with paper certificates issued or alternatively in uncertificated form. They will also be able to convert their holdings from one form to the other at any time. Only when the market is ready, and after further consultation, will the proposed regime for listed securities be made compulsory.

8. To enable the implementation of the dual system, and given that the initial focus is on shares, we propose to amend provisions in the CO that currently (either expressly or implicitly) require the issue of paper share certificates and the use of paper instruments to effect the transfer of shares. The amendments will simply remove the obligation to use paper documents, but not go on to prohibit such use. Amendments will only need to be made to a few specific provisions in the CO, mainly relating to share certificates, instruments of transfer for share transfers, registration of allotments, transfers and transmissions of shares, and the companies’ registers of members.

Participating shares and companies

9. We will introduce new terms in the CO (i.e. “participating shares” and “participating company”) to refer to those shares and companies that will be regulated under the proposed regime -

- (a) “Participating shares” will refer to shares that are “prescribed securities”, and that are permitted by the system operator of an “uncertificated securities market system” to be transferred through the system. (An “uncertificated securities market system” is defined in the Bill to mean a system, together with procedures and other facilities, that enables title to prescribed securities to be evidenced and transferred without paper documents and that facilitates supplementary and incidental matters.) Investors will have the option to hold “participating shares” in uncertificated form or certificated form.
- (b) “Participating company” will refer to a company that has issued any shares that are participating shares.

Register of members of participating companies

10. Under the proposed regime, the register of members of a participating company will consist of two parts: one recording uncertificated shares which will be kept and maintained by the system operator of the uncertificated securities market system (“members register (uncertificated shares)”); and the other recording certificated shares which will be kept and maintained by the relevant share registrar as agent of the participating company (“members register (certificated shares)”). For both parts of the register, the details to be recorded will be set out in the rules.

11. Investors holding shares in uncertificated form will have the option to register their shares in their own names, and thus enjoy the full benefits of legal ownership. If investors prefer to hold their uncertificated shares in the name of a nominee, they will be able to do so as well.

12. To handle matters relating to the register of members of participating companies, we propose *inter alia* –

- (a) to amend the CO to re-define what constitutes the register of members of a participating company (i.e. that it will consist of the members register (certificated shares) and the members register (uncertificated shares)); and
- (b) to amend the SFO to empower the SFC to make rules to provide for how the members register (certificated shares) and the members register (uncertificated shares) are to be kept and

maintained, the matters that may or must be entered in them, and the extent to which they may be available for inspection.⁴

Regulatory oversight and rules

13. We propose that regulatory and operational matters relating to the new uncertificated securities market environment be overseen by the SFC, and set out in a new Part IIIAA in the SFO. Essentially, Part IIIAA will define certain key concepts and principles. In particular –

- (a) It will define what “prescribed securities” are – securities that fall within a class or description of securities specified in the new Schedule 3A to be added to the SFO and that are listed or to be listed on a recognized stock market. As noted in paragraph 6 above, the proposed regime will initially only apply to shares. Hence, only shares will be specified in the new Schedule 3A at the outset.
- (b) It will also define what an “uncertificated securities market system” is and will require that the system operator of such a system may only be a recognized clearing house⁵ (RCH) that is approved by the SFC, after consultation with the Financial Secretary. To complement this, the existing regulatory regime for RCHs will be correspondingly expanded to cover the operation of such systems.
- (c) It will enable the SFC to make rules to provide for the operation and regulation of the uncertificated securities market environment and prescribe penalties for breach.

14. Additionally, as it is envisaged that share registrars will take on a more active and involved role in the uncertificated securities market environment, we propose to empower the SFC to authorize and regulate share registrars who wish to provide share registrar services in respect of participating companies. The new rule-making powers described in paragraph 13(c) above will empower rules to be made by the SFC to provide for the authorization and regulation of such share registrars.

15. All rules made by the SFC as described in paragraphs 13 to 14 above are subsidiary legislation subject to negative vetting by LegCo.

⁴ The SFC’s new rule-making powers are discussed in more detail under paragraphs 13 and 14 below.

⁵ A recognized clearing house is a company recognized as a clearing house under section 37(1) of the SFO.

Fees and charges

16. The guiding principles with respect to fees under the proposed regime are that fees should be reasonable (for all parties concerned), commensurate with services provided, conducive to encouraging innovation and market development, and should not offset the longer term benefits of an uncertificated securities market environment. To that end, we propose to amend section 76 of the SFO to provide that the fees charged by an RCH which is the system operator of an uncertificated securities market system are subject to the SFC's approval⁶. This is in line with the existing legislation which requires fees charged by an RCH to be approved by the SFC.

Stamp duty

17. The proposal will also necessitate amendments to a few other ordinances, including the Stamp Duty Ordinance ("SDO"). Currently, \$5 fixed rate stamp duty is chargeable on the instrument of transfer in respect of any sale or purchase of Hong Kong stock unless it is specifically exempted. Under the proposed regime, participating shares (which are Hong Kong stock) may be transferred without an instrument of transfer in certain circumstances, and consequently, the \$5 fixed duty will no longer be chargeable on such transfers. The chargeability of the ad valorem stamp duty will however not be affected.⁷ Under the proposed regime, ad valorem stamp duty will continue to be collected electronically through the SEHK for all on-Exchange transfers⁸ in the same manner as it is currently collected. However, for off-Exchange transfers⁹ involving participating shares in uncertificated form, we propose to amend the SDO to enable the setting up of a new stamping arrangement for the collection of ad valorem stamp duty. These are

⁶ Under section 76 of the SFO, the SFC shall have regard to, among other matters, the level of competition, if any, in Hong Kong for the matter for which the fee is to be imposed, in deciding whether or not to approve a fee under that section.

⁷ Ad valorem stamp duty is chargeable on all transfers of shares listed in Hong Kong involving a change in beneficial interest.

⁸ On-Exchange transfers refer to -

- (a) transactions effected by brokers through the SEHK in accordance with the Rules of the SEHK and recorded in the trading system of the SEHK; and
- (b) transactions effected by brokers otherwise than through the SEHK but in respect of which brokers choose to make payment of the stamp duty payable thereon through the SEHK.

⁹ Off-Exchange transfers refer to transfers that are not on-Exchange transfers. The proportion of stamp duty from off-Exchange transactions of listed stocks is relatively small, just below 10% of all transactions in listed stocks in recent years.

tax-neutral measures to allow electronic payment of ad valorem stamp duty for off-Exchange transfers in the uncertificated securities environment. In the absence of such an arrangement, it would be necessary to create a paper document for physical stamping at the Stamp Office. This would be a regressive step and inconsistent with the uncertificated securities market initiative.

THE BILL

18. The main provisions of the Bill are as follows -

- (a) **Clauses 3 – 11** amend Part III of the SFO to further regulate an RCH (and its controller) where the RCH is also the system operator of an uncertificated securities market system.
- (b) **Clause 12** adds a new Part IIIAA to the SFO to provide for the regulation of the uncertificated securities market. That Part has three divisions.
 - (i) Division 1 contains interpretation provisions for certain words and expressions used in that Part.
 - (ii) Division 2 provides for the general principles to be adopted for the uncertificated securities market regime.
 - (iii) Division 3 empowers the SFC to approve, after consultation with the Financial Secretary, an RCH to operate and maintain an uncertificated securities market system. Division 3 also empowers the SFC to make rules relating to the regulation of the uncertificated securities market environment, such as matters relating to the operation of an uncertificated securities market system, the keeping of the register of members (certificated shares) and register of members (uncertificated shares), the procedures for registering any allotment, transmission or transfer of prescribed securities through the uncertificated securities market system, the authorization and regulation of share registrars of participating companies, etc..
- (c) **Clause 19** adds a new Schedule 3A to the SFO which will list the classes or descriptions of securities which, if listed or to be listed on a recognized stock market, are to be “prescribed securities” for the purposes of the proposed regime. At the

initial stage, only shares will be included in the list under new Schedule 3A.

- (d) **Clause 20** amends section 2 of the CO to provide for the interpretation of certain words and expressions used in the CO in relation to the proposed regime.
- (e) **Clauses 21 – 48** amend certain other provisions of the CO, including provisions that relate to the allotment, transmission and transfer of shares of a Hong Kong company, and the keeping of a register of members of such a company.
- (f) **Clauses 52 - 58** amend the SDO to provide mainly for a new stamping method for the collection of ad valorem stamp duty for off-Exchange transfers involving shares in uncertificated form.

B The existing provisions being amended are at Annex B.

LEGISLATIVE TIMETABLE

19. The legislative timetable will be –

Publication in the Gazette	13 June 2014
First Reading and commencement of Second Reading debate	25 June 2014
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

IMPLICATIONS OF THE PROPOSAL

20. The Bill is in conformity with the Basic Law, including the provisions concerning human rights. The amendments proposed in the Bill will not affect the current binding effect of the SFO, the CO, and other ordinances and subsidiary legislation being amended. It has no productivity or family implications. As the SFC will be responsible for enforcing the proposed regime, there are no civil service implications to the Government.

21. We expect that the Bill will have positive environmental and sustainability implications by further reducing the use of paper. As for economic implications, the proposed regime will enable straight-through processing and enhance efficiency and the turnaround time for transactions, and enhance overall efficiency in our securities market. The proposed regime can also help enhance corporate governance, and ultimately secure an improved level of investor choice and protection, thereby helping to reinforce Hong Kong's position as an international financial centre. After the implementation of the proposed regime, some of the services currently being provided in the market will need to evolve, and so will the cost and fee structure. The significance of the impact will vary among different participants.

22. Under the proposed regime, the current \$5 fixed duty will no longer be chargeable on participating shares transferred without an instrument of transfer but the ad valorem stamp duty will continue to be collected. The amounts of \$5 fixed duty collected from the instruments of transfer of listed shares for the years 2012-13 and 2013-14 are \$660,655 and \$775,260 respectively. The corresponding amounts of ad valorem duty on transfer of listed shares collected are \$19,450 million and \$22,097 million respectively. The revenue forgone of the fixed duty is considered minimal.

PUBLIC CONSULTATION

23. A public consultation on the proposed operational model for an uncertificated securities market was conducted from December 2009 to March 2010. The consultation conclusions were published in September 2010. The vast majority of market respondents supported the initiative. We briefed the LegCo Panel on Financial Affairs on the proposed operational model for an uncertificated securities market at its meetings on 1 February 2010 and 1 November 2010.

24. We further briefed the Panel on the relevant legislative proposal at its meeting on 6 January 2014. Members generally supported the introduction of a Bill to enable the early introduction of an uncertificated securities market regime. They asked about the timeframe for the proposed regime to cover companies from other jurisdictions and the cost impact on market participants. We explained that we would initiate discussions with other jurisdictions in tandem with the current legislative exercise in Hong Kong, with the objective of covering companies from as many jurisdictions as possible when the new regime starts to operate.

We also explained the guiding principles for fees and charges and the proposed approval power for the SFC (as described in paragraphs 13 and 16 above).

PUBLICITY

25. We will conduct a press briefing and issue a press release on 11 June 2014. A spokesperson will be available to answer media enquiries.

ENQUIRIES

26. Enquiries relating to this brief can be directed to Ms Ada Chan, Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) at 2810 2056.

Financial Services Branch
Financial Services and the Treasury Bureau
11 June 2014

**Securities and Futures and Companies Legislation
(Uncertificated Securities Market Amendment) Bill
2014**

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A BILL To

Amend the Securities and Futures Ordinance, the Companies Ordinance and other enactments to facilitate the establishment and implementation of an uncertificated securities market regime in Hong Kong; and to provide for related matters and make minor amendments.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Securities and Futures and Companies Legislation (Uncertificated Securities Market Amendment) Ordinance 2014.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette.

2. Enactments amended

- (1) The Securities and Futures Ordinance (Cap. 571) is amended as set out in Part 2.
- (2) The Companies Ordinance (Cap. 622) is amended as set out in Part 3.

- (3) The enactments specified in Part 4 are amended as set out in that Part.

Part 2

Amendments to Securities and Futures Ordinance

3. Section 38 amended (duties of recognized clearing house)

(1) Section 38, Chinese text—

Repeal subsection (1)

Substitute

“(1) 認可結算所 —

- (a) 有責任在合理地切實可行的範圍內，確保透過其設施結算或交收的證券或期貨合約的交易，是在有秩序、公平和快捷的結算及交收安排下進行的；及
- (b) 有責任確保與其業務及營運有關聯的風險，得以審慎管理。”

(2) After section 38(1)—

Add

“(1A) If a recognized clearing house is also the system operator of an uncertificated securities market system, the clearing house must also ensure, so far as reasonably practicable, that—

- (a) the system is properly operated and maintained; and
- (b) the activities, instructions and other things that are required or permitted to be carried out, executed or processed by or through the system are carried out, executed or processed by or through the system in an orderly, fair and expeditious manner.”

(3) Section 38(2), after “subsection (1)”—

Add

“or (1A)”.

(4) Section 38(3), Chinese text—

Repeal

“運作”

Substitute

“營辦”.

(5) Section 38(4), after “clearing participants”—

Add

“and (if it is also a system operator) its system participants”.

(6) After section 38(5)—

Add

“(6) In subsection (1A)—

instruction (指示) means any instruction, election, acceptance or other message of any kind.”.

4. Section 40 amended (rules by recognized clearing houses)

(1) Section 40(1)(a), Chinese text—

Repeal

“運作” (wherever appearing)

Substitute

“營辦”.

(2) After section 40(1)(a)—

Add

“(ab) for the proper regulation and efficient operation of the uncertificated securities market system that it operates;”.

(3) Section 40(1)(b)—

Repeal the semicolon

Substitute

“and (if it is also a system operator) its system participants; or”.

5. Section 42 amended (production of records, etc. by recognized clearing house)

Section 42—

Repeal subsection (1)

Substitute

“(1) The Commission may, by notice in writing served on a recognized clearing house, require the clearing house to provide to the Commission, within the period specified in the notice, any specified materials that the Commission reasonably requires for performing its functions.

(1A) The specified materials are—

- (a) books and records kept by the recognized clearing house in connection with or for its business;
- (b) books and records kept by the clearing house in respect of any clearing and settlement arrangements for—
 - (i) any transactions in securities or futures contracts; or
 - (ii) any transactions in OTC derivative products;
- (c) other information that relates to—

- (i) the business of the clearing house; or
- (ii) any clearing and settlement arrangements described in paragraph (b); and
- (d) if the clearing house is also the system operator of an uncertificated securities market system—
 - (i) books and records kept by the clearing house in respect of the operation and maintenance of the system, or in respect of any transactions or other things effected or processed by or through the system; and
 - (ii) other information that relates to the operation and maintenance of the system, or to any transactions or things described in subparagraph (i).”.

6. Section 43 amended (withdrawal of recognition of clearing house and direction to cease to provide facilities)

(1) Section 43(1)(b), Chinese text—

Repeal

“運作”

Substitute

“營辦”.

(2) Section 43(2)(a), Chinese text—

Repeal

“運作”

Substitute

“營運”.

(3) Section 43(3)(c), Chinese text—

Repeal

“已停止以結算所的形式營辦”

Substitute

“停止作為結算所的營運”.

- (4) Section 43(7), Chinese text—

Repeal

“運作”

Substitute

“營辦”.

7. Section 63 amended (duties of recognized exchange controller)

- (1) After section 63(1)—

Add

“(1A) If a recognized clearing house is also the system operator of an uncertificated securities market system, a recognized exchange controller which is a controller of the clearing house must also ensure, so far as reasonably practicable, that—

- (a) the system is properly operated and maintained; and
- (b) the activities, instructions and other things that are required or permitted to be carried out, executed or processed by or through the system are carried out, executed or processed by or through the system in an orderly, fair and expeditious manner.”.

- (2) Section 63(2), after “(c)”—

Add

“or (1A)”.

- (3) After section 63(2)—

Add

- “(3) In subsection (1A)—

instruction (指示) means any instruction, election, acceptance or other message of any kind.”.

8. Section 71 amended (production of records, etc. by recognized exchange controller)

Section 71—

Repeal subsection (1)

Substitute

- “(1) The Commission may, by notice in writing served on a recognized exchange controller, require the exchange controller to provide to the Commission, within the period specified in the notice, any specified materials that the Commission reasonably requires for performing its functions.

- (1A) The specified materials are—

- (a) books and records kept by the recognized exchange controller in connection with or for its business;
- (b) books and records kept by the exchange controller in respect of—
 - (i) any trading in securities or futures contracts traded on the stock market or futures market operated by a recognized exchange company of which it is a controller;
 - (ii) any trading in securities or futures contracts traded through the facilities of that company; or

- (iii) any trading in OTC derivative products traded through the facilities of that company;
- (c) books and records kept by the exchange controller in respect of any clearing and settlement arrangements for—
 - (i) any transactions in securities or futures contracts cleared or settled through the facilities of a recognized clearing house of which it is a controller; or
 - (ii) any transactions in OTC derivative products cleared or settled through the facilities of that clearing house;
- (d) other information that relates to—
 - (i) the business of the exchange controller;
 - (ii) any trading described in paragraph (b); or
 - (iii) any clearing and settlement arrangements described in paragraph (c); and
- (e) if a recognized clearing house of which the exchange controller is a controller is also the system operator of an uncertificated securities market system—
 - (i) books and records kept by the exchange controller in respect of the operation and maintenance of the system, or in respect of any transactions or other things effected or processed by or through the system; and
 - (ii) other information that relates to the operation and maintenance of the system, or to any transactions or things described in subparagraph (i).”.

9. Section 76 amended (fees to be approved by Commission)

- (1) After section 76(1)—

Add

“(1A) A fee imposed by a recognized clearing house in its capacity as a system operator does not have effect unless the fee—

- (a) is specified in the rules of the clearing house; and
- (b) is approved in writing by the Commission.”.

- (2) Section 76(2), after “subsection (1)”—

Add

“or (1A)”.

10. Section 91 amended (supply of information)

- (1) Section 91(1)(b), after “clearing participants”—

Add

“and (if it is also a system operator) the affairs of any of its system participants”.

- (2) Section 91(1)(ii)—

Repeal

everything after “clearing house”

Substitute

“(whether or not as a system operator), recognized exchange controller or recognized investor compensation company to which the information is supplied, under this Ordinance or their respective rules.”.

- (3) Section 91(2)(b), after “clearing participants”—

Add

“and (if it is also a system operator) the affairs of any of its system participants”.

11. Section 92 amended (additional powers of Commission—restriction notices)

(1) Section 92(13)(c)—

Repeal

“or”.

(2) Section 92(13)(d)—

Repeal the comma

Substitute

“; or”.

(3) After section 92(13)(d)—

Add

“(e) a system participant.”.

12. Part IIIA added

After Part III—

Add

“Part IIIA

Uncertificated Securities Market

Division 1—Preliminary

101AA. Interpretation of Part IIIA

In this Part—

cessation notice (停止營辦通知) means a notice served under section 101AAK(5);

prescribed securities (訂明證券)—see section 101AAB;

withdrawal notice (撤回批准通知) means a notice served under section 101AAI(5).

101AAB. What are prescribed securities

(1) Prescribed securities are securities—

(a) that fall within a class or description of securities specified in Schedule 3A; and

(b) that are listed or to be listed on a recognized stock market.

(2) The Commission may, after consultation with the Financial Secretary, by notice published in the Gazette, amend Schedule 3A.

101AAC. What is an uncertificated securities market system

An uncertificated securities market system is a computer-based system, together with procedures and other facilities, that—

(a) enables title to prescribed securities to be evidenced and transferred without an instrument; and

(b) facilitates supplementary and incidental matters.

Division 2—General Principles

101AAD. Evidence and transfer of title to prescribed securities without instrument

- (1) Subject to subsection (2), title to prescribed securities may be evidenced and transferred without an instrument.
- (2) Title to prescribed securities may only be so evidenced and transferred—
 - (a) by or through an uncertificated securities market system operated and maintained by its system operator; and
 - (b) under the Uncertificated Securities Market Rules.

Note—

See also sections 101AAE and 101AAF.

101AAE. Conflict or inconsistency between section 101AAD and certain provisions and terms of corporations

- (1) For any prescribed securities that are shares in a corporation, if there is a conflict or inconsistency between the specified enactments and the provisions and terms, the specified enactments prevail to the extent of the conflict or inconsistency.
- (2) For any other prescribed securities, if there is a conflict or inconsistency between the specified enactments and the terms of issue of the securities, the specified enactments prevail to the extent of the conflict or inconsistency.
- (3) In this section—

provisions and terms (條文及條款), in relation to shares in a corporation, means the following provisions and terms—

- (a) the provisions of the constitution of the corporation; and
- (b) the terms of issue of the shares;

specified enactments (指明成文法則) means the following enactments—

- (a) section 101AAD; and
- (b) the Uncertificated Securities Market Rules;

terms of issue (發行條款), in relation to any prescribed securities, includes the terms of issue of the securities imposed by the issuer in relation to—

- (a) the holding of the securities; or
- (b) the transfer of title to the securities.

Note—

See also section 101AAF.

101AAF. Conflict or inconsistency between section 101AAD or 101AAE and laws of places outside Hong Kong

- (1) This section applies to—
 - (a) any prescribed securities that are shares in or debentures of a body corporate incorporated in a place outside Hong Kong; and
 - (b) any prescribed securities, other than those mentioned in paragraph (a), that are constituted under the law of a place outside Hong Kong.
- (2) The specified enactments apply to any prescribed securities mentioned in subsection (1)(a) to the extent to which the application is neither prohibited under nor in conflict or inconsistent with—
 - (a) the law of the place of incorporation; or

- (b) the law under which the securities are constituted (if the securities are constituted under the law of a place other than Hong Kong and the place of incorporation).
- (3) The specified enactments apply to any prescribed securities mentioned in subsection (1)(b), other than those mentioned in subsection (1)(a), to the extent to which the application is neither prohibited under nor in conflict or inconsistent with the law under which the securities are constituted.
- (4) In this section—
place of incorporation (成立地), in relation to prescribed securities that are shares in or debentures of a body corporate, means the place in which the body corporate is incorporated;
specified enactments (指明成文法則) means the following enactments—
 - (a) section 101AAD;
 - (b) section 101AAE; and
 - (c) the Uncertificated Securities Market Rules.

Division 3—Uncertificated Securities Market Regime

Subdivision 1—Powers of Commission

- 101AAG. Commission to approve recognized clearing house to operate and maintain uncertificated securities market system**
- (1) The Commission may, after consultation with the Financial Secretary, approve a recognized clearing house

- to operate and maintain an uncertificated securities market system.
- (2) The Commission must not grant the approval unless the Commission is satisfied that—
 - (a) it is appropriate to do so in the interests of the investing public or in the public interest; or
 - (b) it is appropriate to do so for the proper regulation of markets in securities.
- (3) The approval—
 - (a) is to be granted by notice in writing served on the clearing house; and
 - (b) may be granted subject to conditions imposed by the Commission and specified in the notice.
- (4) The approval takes effect on the date specified in the notice.
- (5) If—
 - (a) a recognized clearing house seeks an approval under subsection (1); and
 - (b) the Commission intends not to grant the approval, the Commission must give the clearing house a reasonable opportunity of being heard before making a decision not to grant the approval.
- (6) If—
 - (a) a recognized clearing house seeks an approval under subsection (1); and
 - (b) the Commission decides not to grant the approval,

the Commission must, by notice in writing served on the clearing house, inform the clearing house of the decision and the reasons for the decision.

101AAH. Power of Commission to impose conditions, or to amend or revoke conditions

- (1) The Commission may, after consultation with the Financial Secretary, do one or more of the following with regard to an approval that has been granted under section 101AAG(1)—
 - (a) impose a condition;
 - (b) amend or revoke a condition.
- (2) The Commission must not impose, amend or revoke a condition under subsection (1) unless the Commission is satisfied that—
 - (a) it is appropriate to do so in the interests of the investing public or in the public interest; or
 - (b) it is appropriate to do so for the proper regulation of markets in securities.
- (3) If the Commission decides to impose, amend or revoke a condition under subsection (1), the Commission must, by notice in writing served on the recognized clearing house, inform the clearing house of the decision.
- (4) If the Commission imposes, amends or revokes a condition under subsection (1), the imposition, amendment or revocation takes effect—
 - (a) at the time the notice is served on the recognized clearing house; or
 - (b) at the time specified in the notice, whichever is the later.

101AAI. Power of Commission to withdraw approval granted under section 101AAG

- (1) The Commission may, after consultation with the Financial Secretary, withdraw an approval granted under section 101AAG(1) to a recognized clearing house.
- (2) In addition, the Commission may, after consultation with the Financial Secretary, permit the clearing house to continue to carry on any activities affected by the withdrawal.
- (3) The Commission must not withdraw an approval granted under section 101AAG(1) to a recognized clearing house unless—
 - (a) the clearing house fails to comply with a requirement of this Ordinance;
 - (b) the clearing house fails to comply with a condition imposed under section 37(1) or (2);
 - (c) the clearing house fails to comply with—
 - (i) a condition imposed under section 101AAG(3)(b) or 101AAH(1)(a); or
 - (ii) a condition amended under section 101AAH(1)(b);
 - (d) the clearing house is being wound up;
 - (e) the clearing house has requested the Commission to withdraw the approval;
 - (f) the clearing house has requested the Commission to serve on the clearing house a notice under section 43(1);
 - (g) the clearing house has requested the Commission to give a direction under section 101AAK(1);

- (h) the clearing house—
 - (i) ceases to operate or maintain the uncertificated securities market system that the clearing house is approved under section 101AAG(1) to operate and maintain;
 - (ii) ceases to provide or operate any other facilities that are provided or operated by the clearing house in connection with the operation of the system; or
 - (iii) ceases to provide any services that are provided by the clearing house in connection with the operation of the system; or
- (i) the clearing house ceases to operate as a clearing house.
- (4) The Commission must not grant a permission under subsection (2) except—
 - (a) for giving effect to the withdrawal; or
 - (b) for protecting the interests of the investing public or the public interest.
- (5) If the Commission decides to withdraw an approval under subsection (1), the Commission must, by notice in writing served on the clearing house, inform the clearing house of—
 - (a) the decision; and
 - (b) the reasons for the decision.
- (6) Subject to subsection (7), the withdrawal takes effect on the date specified in the withdrawal notice for the purpose.
- (7) The withdrawal must not take effect—

- (a) if an appeal against the Commission's decision to withdraw the approval is made under section 101AAN, until the appeal is withdrawn, abandoned or determined; and
- (b) in any other case, until the period within which the appeal may be made under section 101AAN expires.
- (8) If the Commission decides to grant a permission under subsection (2), the Commission must, by the withdrawal notice served on the clearing house, inform the clearing house of—
 - (a) the decision; and
 - (b) the reasons for the decision.
- (9) The permission takes effect on the date specified in the withdrawal notice for the purpose.

101AAJ. Notification of Commission's intention to withdraw approval under section 101AAI

- (1) If the Commission intends to withdraw an approval under section 101AAI(1), the Commission must, by notice in writing served on the clearing house to whom the approval is granted, inform the clearing house of—
 - (a) the Commission's intention; and
 - (b) the reasons the Commission will rely on for withdrawing the approval.
- (2) Subsection (1) does not apply if—
 - (a) the clearing house has requested the Commission to withdraw the approval; or

- (b) the clearing house has requested the Commission to serve on the clearing house a notice under section 43(1).
- (3) If subsection (1) applies, and the Commission also intends to grant a permission under section 101AAI(2), the Commission must, by the intention notice served on the clearing house, further inform the clearing house of—
 - (a) the Commission's intention to grant the permission; and
 - (b) the reasons the Commission will rely on for granting the permission.
- (4) The intention notice must be served on the clearing house not less than 14 days before the Commission serves the withdrawal notice.
- (5) The Commission must give the clearing house on whom the intention notice is served a reasonable opportunity of being heard before exercising any of the powers under section 101AAI(1) and (2).
- (6) In this section—
intention notice (意向通知) means a notice served under subsection (1).

101AAK. Power of Commission to direct recognized clearing house to cease operating uncertificated securities market system etc.

- (1) The Commission may, after consultation with the Financial Secretary, direct a recognized clearing house to do one or more of the following—

- (a) cease to operate or maintain an uncertificated securities market system that the clearing house is approved under section 101AAG(1) to operate and maintain;
- (b) cease to provide or operate any other facilities that are provided or operated by the clearing house in connection with the operation of the system;
- (c) cease to provide any services that are provided by the clearing house in connection with the operation of the system.
- (2) In addition, the Commission may, after consultation with the Financial Secretary, permit the clearing house to continue to carry on any activities affected by the direction.
- (3) The Commission must not give a direction under subsection (1) to a recognized clearing house unless—
 - (a) the clearing house fails to comply with a requirement of this Ordinance;
 - (b) the clearing house fails to comply with a condition imposed under section 37(1) or (2);
 - (c) the clearing house fails to comply with—
 - (i) a condition imposed under section 101AAG(3)(b) or 101AAH(1)(a); or
 - (ii) a condition amended under section 101AAH(1)(b);
 - (d) the clearing house is being wound up;
 - (e) the clearing house has requested the Commission to give the direction;

- (f) the clearing house has requested the Commission to serve on the clearing house a notice under section 43(1);
- (g) the clearing house has requested the Commission to withdraw the approval granted under section 101AAG(1) to the clearing house;
- (h) the clearing house—
 - (i) ceases to operate or maintain the uncertificated securities market system that the clearing house is approved under section 101AAG(1) to operate and maintain;
 - (ii) ceases to provide or operate any other facilities that are provided or operated by the clearing house in connection with the operation of the system; or
 - (iii) ceases to provide any services that are provided by the clearing house in connection with the operation of the system; or
- (i) the clearing house ceases to operate as a clearing house.
- (4) The Commission must not grant a permission under subsection (2) except—
 - (a) for giving effect to the direction; or
 - (b) for protecting the interests of the investing public or the public interest.
- (5) If the Commission decides to give a direction under subsection (1), the Commission must, by notice in writing served on the clearing house, inform the clearing house of—
 - (a) the decision; and

- (b) the reasons for the decision.
- (6) The direction specified in the cessation notice takes effect on the date specified in the notice for the purpose.
- (7) If the Commission decides to grant a permission under subsection (2), the Commission must, by the cessation notice served on the clearing house, inform the clearing house of—
 - (a) the decision; and
 - (b) the reasons for the decision.
- (8) The permission takes effect on the date specified in the cessation notice for the purpose.

101AAL. Notification of Commission's intention to give direction under section 101AAK

- (1) If the Commission intends to give a direction under section 101AAK(1), the Commission must, by notice in writing served on the clearing house, inform the clearing house of—
 - (a) the Commission's intention; and
 - (b) the reasons the Commission will rely on for giving the direction.
- (2) Subsection (1) does not apply if—
 - (a) the clearing house has requested the Commission to give the direction; or
 - (b) the clearing house has requested the Commission to serve on the clearing house a notice under section 43(1).
- (3) If subsection (1) applies, and the Commission also intends to grant a permission under section 101AAK(2),

the Commission must, by the intention notice served on the clearing house, further inform the clearing house of—

- (a) the Commission's intention to grant the permission; and
 - (b) the reasons the Commission will rely on for granting the permission.
- (4) The intention notice must be served on the clearing house not less than 14 days before the Commission serves the cessation notice.
- (5) The Commission must give the clearing house on whom the intention notice is served a reasonable opportunity of being heard before exercising any of the powers under section 101AAK(1) and (2).
- (6) In this section—

intention notice (意向通知) means a notice served under subsection (1).

101AAM. Certain facts or particulars to be published in Gazette

- (1) If the Commission approves under section 101AAG(1) a recognized clearing house to operate and maintain an uncertificated securities market system, the Commission must publish notice of that fact in the Gazette.
- (2) If the Commission withdraws under section 101AAI(1) an approval granted to a recognized clearing house, the Commission must publish notice of that fact in the Gazette.
- (3) If the Commission gives a direction under section 101AAK(1) to a recognized clearing house, the

Commission must publish notice of the particulars of the direction in the Gazette.

101AAN. Appeals

- (1) A person served with a withdrawal notice may appeal to the Chief Executive in Council against the Commission's decision to withdraw the approval granted under section 101AAG(1) to the person.
- (2) A person served with a cessation notice may appeal to the Chief Executive in Council against the Commission's decision to give a direction under section 101AAK(1) to the person.
- (3) The appeal must be made—
 - (a) within 14 days after the date of service of the notice; or
 - (b) if a longer appeal period is specified in the notice, within the period.
- (4) The decision of the Chief Executive in Council on the appeal is final.

Subdivision 2—Uncertificated Securities Market Rules

101AAO. Uncertificated Securities Market Rules

- (1) For the purposes of this Part, the Commission may make rules—
 - (a) providing for activities and matters involving or relating to prescribed securities or issuers of prescribed securities (*issuers*), including—
 - (i) the allotment, issue and holding of prescribed securities;

- (ii) the transfer of prescribed securities, including the circumstances under which the transfer may be effected without an instrument;
 - (iii) the conversion of prescribed securities in certificated form into uncertificated form; and
 - (iv) the conversion of prescribed securities in uncertificated form into certificated form; and
 - (b) providing for matters relating to title to prescribed securities, including the evidencing, recording and passing of such title.
- (2) Without limiting subsection (1), rules made under that subsection (**rules**) may provide for the following—
- (a) the regulation of—
 - (i) the procedures and operations of an uncertificated securities market system; or
 - (ii) any matters relating to the carrying out, execution or processing of activities, instructions or other things by or through an uncertificated securities market system;
 - (b) the registration of prescribed securities, and the registration of issuers' shares that are not prescribed securities, including—
 - (i) the registration of the allotment, transfer and transmission of such securities or shares;
 - (ii) the registration of holders of such securities or shares; and
 - (iii) the keeping of registers or other records or documents for such securities or shares;

- (c) the rights, duties and liabilities, including the exemption from liabilities, of persons responsible for keeping the registers or other records or documents mentioned in paragraph (b)(iii);
- (d) the making and provision of statements, by persons described in paragraph (c), and the issue of certificates or other documents by those persons;
- (e) the rectification of the registers or other records or documents mentioned in paragraphs (b)(iii) and (d);
- (f) the inspection, or withholding from inspection, of any or all parts of those registers, records or documents;
- (g) the making of copies of any or all parts of those registers, records or documents;
- (h) the authorization of persons—
 - (i) to engage or participate in activities involving or relating to prescribed securities; or
 - (ii) to engage or participate in activities involving or relating to any of the matters mentioned in paragraphs (a), (b), (d), (e), (f) and (g),
other than to operate and maintain an uncertificated securities market system;
- (i) the regulation of the persons mentioned in paragraph (h);
- (j) the consequences of the insolvency or incapacity of a system operator, or any other person authorized under the rules to engage or participate in activities described in paragraph (h);

- (k) the rights, duties and liabilities, including exemption from liabilities, of persons mentioned in paragraph (j);
 - (l) the charging or collecting of fees, by a person (other than the Commission) specified in the rules—
 - (i) in respect of any things done, or services provided, by the person in performing their functions under the rules; or
 - (ii) in respect of any things done, or services provided, by the person in connection with any other matters specified in the rules; and
 - (m) the admissibility in evidence in legal proceedings of documents specified in the rules and proof of the matters contained in those documents.
- (3) Rules made under subsection (1) may prescribe offences for contravention of the rules punishable (whether on conviction on indictment or on summary conviction), by a fine, imprisonment or both.
- (4) For an offence punishable on conviction on indictment, the maximum fine that may be prescribed is \$1,000,000 and the maximum imprisonment that may be prescribed is 7 years. In addition, in the case of a continuing offence, a further fine not exceeding \$100,000 for each day during which the offence continues may be prescribed.
- (5) For an offence punishable on summary conviction, the maximum fine that may be prescribed is \$500,000 and the maximum imprisonment that may be prescribed is 2 years. In addition, in the case of a continuing offence, a

further fine not exceeding \$10,000 for each day during which the offence continues may be prescribed.

- (6) In subsection (2)(a)(ii)—

instruction (指示) means any instruction, election, acceptance or other message of any kind.”.

13. Section 209 amended (general provisions relating to sections 204, 205, 206 and 208)

Section 209(8)(a)—

Repeal

“or a clearing participant”

Substitute

“, a clearing participant or a system participant”.

14. Section 212 amended (winding-up orders and bankruptcy orders)

Section 212(3)(a)—

Repeal

“or a clearing participant”

Substitute

“, a clearing participant or a system participant”.

15. Section 213 amended (injunctions and other orders)

Section 213(3)(a)—

Repeal

“or a clearing participant”

Substitute

“, a clearing participant or a system participant”.

16. Section 336 amended (register of interests in shares and short positions)

- (1) After section 336(14)—

Add

“(14A) For the purposes of subsection (10)(a)(i) and (ii), if any shares in the corporation are participating shares, a reference to the corporation’s register of members in that subsection is a reference to its members register (certificated shares).”.

- (2) After section 336(15)—

Add

“(16) In subsection (14A)—

members register (certificated shares) ((有紙股份)成員登記冊), in relation to a corporation, means the register required under the Uncertificated Securities Market Rules to be kept by the corporation in respect of its members who hold shares in the corporation that are in certificated form;

participating shares (參與股份) means shares that are permitted by the system operator of an uncertificated securities market system to be transferred through the system.”.

17. Schedule 1 amended (interpretation and general provisions)

- (1) Schedule 1, Part 1, section 1, definition of **rules**, after paragraph (b)(i)—

Add

“(ia) its system participants (if the clearing house is also a system operator);”.

- (2) Schedule 1, Part 1, section 1, definition of **rules**, after paragraph (b)(ii)—

Add

“(iia) the operation and maintenance of the uncertificated securities market system that it operates (if the clearing house is also a system operator);”.

- (3) Schedule 1, Chinese text, Part 1, section 1, definition of **規章**, paragraph (b)(vi)—

Repeal

“運作”

Substitute

“營運”.

- (4) Schedule 1, English text, Part 1, section 1, definition of **trading right**—

Repeal the full stop

Substitute a semicolon.

- (5) Schedule 1, Part 1, section 1—

Add in alphabetical order

“system operator (系統營辦者) means a recognized clearing house approved by the Commission under section 101AAG(1) of this Ordinance to operate and maintain an uncertificated securities market system;

system participant (系統參與者)—see section 1AC of this Part;

Uncertificated Securities Market Rules (《無紙證券市場規則》) means the rules made under section 101AAO(1) of this Ordinance;

uncertificated securities market system (無紙證券市場系統)—see section 101AAC of this Ordinance.”.

- (6) Schedule 1, Part 1, after section 1A—

Add

“1AB. How to determine whether securities are in uncertificated form or in certificated form

For the purposes of this Ordinance—

- (a) any securities are in uncertificated form if the title to them—
 - (i) is, under the Uncertificated Securities Market Rules, recorded by or through an uncertificated securities market system operated and maintained by its system operator; and
 - (ii) is, under the Rules, permitted to be transferred, without an instrument, through the system; and
- (b) any securities are in certificated form if they are not in uncertificated form.

1AC. Who is a system participant

- (1) A person is a system participant if the person is permitted by the rules of a system operator made under section 40(1)(ab) of this Ordinance to send and receive authenticated instructions by or through an uncertificated securities market system.
- (2) For the purposes of subsection (1), an instruction is authenticated if it complies with the specifications

provided for in the Uncertificated Securities Market Rules.

- (3) In this section—

instruction (指示) means any instruction, election, acceptance or other message of any kind.”.

- (7) Schedule 1, Part 1, after section 13—

Add

“14. Commencement of subsidiary legislation

Without limiting section 28(5) of the Interpretation and General Clauses Ordinance (Cap. 1), if any subsidiary legislation made under this Ordinance is to come into operation on a day to be notified in the Gazette—

- (a) the notice may fix different days for a provision of the subsidiary legislation to come into operation for different purposes; and
- (b) different notices may fix different days for the provision to come into operation for different purposes.”.

18. Schedule 2 amended (Securities and Futures Commission)

- (1) Schedule 2, Chinese text, Part 2, section 2(34)—

Repeal

“運作”

Substitute

“營辦”.

- (2) Schedule 2, Part 2, section 2(53), after “76(1)”—

Add

“or (1A)”.

(3) Schedule 2, Part 2, after section 2(68)—

Add

- “(68A) to approve a recognized clearing house to operate and maintain an uncertificated securities market system, under section 101AAG(1) of this Ordinance;
- (68B) to impose a condition, under section 101AAG(3)(b) or 101AAH(1)(a) of this Ordinance;
- (68C) to give a recognized clearing house a reasonable opportunity of being heard, under section 101AAG(5) of this Ordinance;
- (68D) to amend or revoke a condition, under section 101AAH(1)(b) of this Ordinance;
- (68E) to withdraw an approval granted to a recognized clearing house, under section 101AAI(1) of this Ordinance;
- (68F) to direct a recognized clearing house to cease to operate or maintain an uncertificated securities market system, to cease to provide or operate any other facilities, or to cease to provide any services, under section 101AAK(1) of this Ordinance;”.

19. Schedule 3A added

After Schedule 3—

Add

“Schedule 3A [s. 101AAB]

Classes or Descriptions of Securities

1. Shares.”.
-

Part 3

Amendments to Companies Ordinance

20. Section 2 amended (interpretation)

(1) Section 2(1)—

Add in alphabetical order

“members register (certificated shares) ((有紙股份)成員登記冊), in relation to a participating company, means the register required under the Uncertificated Securities Market Rules to be kept by the company in respect of its members who hold shares in the company that are in certificated form;

members register (uncertificated shares) ((無紙股份)成員登記冊), in relation to a participating company, means the register required under the Uncertificated Securities Market Rules to be kept by a system operator in respect of the company’s members who hold shares in the company that are in uncertificated form;

non-participating company (非參與公司) means a company that is not a participating company;

participating company (參與公司) means a company any shares in which are participating shares;

participating shares (參與股份) means shares that are permitted by the system operator of an uncertificated securities market system to be transferred through the system;

register of members (成員登記冊), in relation to a company, means the register of the members of the company mentioned in section 626A;

system operator (系統營辦者) has the meaning given by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);

Uncertificated Securities Market Rules (《無紙證券市場規則》) means the rules made under section 101AAO(1) of the Securities and Futures Ordinance (Cap. 571);

uncertificated securities market system (無紙證券市場系統) has the meaning given by section 101AAC of the Securities and Futures Ordinance (Cap. 571);”.

(2) After section 2(3)—

Add

“(3A) For the purposes of this Ordinance—

(a) any share in a company is in uncertificated form if the title to it—

(i) is, under the Uncertificated Securities Market Rules, recorded by or through an uncertificated securities market system operated and maintained by its system operator; and

(ii) is, under the Rules, permitted to be transferred, without an instrument, through the system; and

(b) any share in a company is in certificated form if it is not in uncertificated form.”.

21. Section 134 amended (nature and transferability of shares)

(1) Section 134(2)—

Repeal

“A”

Substitute

“Subject to subsection (3), a”.

- (2) After section 134(2)—

Add

“(3) Any shares or other interests that are prescribed securities within the meaning of section 101AAB of the Securities and Futures Ordinance (Cap. 571) are transferable in accordance with the company’s articles, subject to—

- (a) Part IIIAA of that Ordinance; and
- (b) the Uncertificated Securities Market Rules.”.

22. Section 137 amended (share certificate to be proof of title in the absence of contrary evidence)

At the end of section 137—

Add

“Note—

See also section 635.”.

23. Section 143 amended (registration of allotment)

- (1) Section 143, heading, after “allotment”—

Add

“—non-participating company”.

- (2) Section 143(1), after “A”—

Add

“non-participating”.

- (3) Section 143(1)—

Repeal

“the register of its members the information referred to in section 627(2) and (3).”

Substitute

“its register of members the following information in respect of the allotment—

- (a) the name and address of each person to whom shares are allotted (*allottee*);
- (b) the date on which each allottee is entered in the register as a member of the company;
- (c) a statement of the shares allotted to each allottee, distinguishing each share by its number so long as the share has a number; and
- (d) a statement of the amount paid or agreed to be considered as paid on the shares allotted to each allottee.”.

- (4) Section 143(2), after “If a”—

Add

“non-participating”.

- (5) Section 143(2), after “the allotment”—

Add

“by entering in its register of members the information mentioned in subsection (1)”.

24. Sections 143A and 143B added

After section 143—

Add

“143A. Registration of allotment—participating company

- (1) A participating company must, by notice given to the system operator, request the system operator to register under the Uncertificated Securities Market Rules an allotment of shares that are to be in uncertificated form.
- (2) The notice under subsection (1)—
 - (a) must contain the particulars specified in the Uncertificated Securities Market Rules; and
 - (b) must be given within the period and in the manner specified in the Rules.
- (3) A participating company must register an allotment of any other shares as soon as practicable and in any event within 2 months after the date of the allotment, by entering in its members register (certificated shares) the following information in respect of the allotment—
 - (a) the name and address of each person to whom shares are allotted (*allottee*);
 - (b) the date on which each allottee is entered in the register as a member of the company;
 - (c) a statement of the shares allotted to each allottee, distinguishing each share by its number so long as the share has a number; and
 - (d) a statement of the amount paid or agreed to be considered as paid on the shares allotted to each allottee.
- (4) If a participating company fails to comply with subsection (1), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing

offence, to a further fine of \$700 for each day during which the offence continues.

- (5) If a participating company fails to register an allotment mentioned in subsection (3) within 2 months after the date of the allotment by entering in its members register (certificated shares) the information mentioned in that subsection, the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.

Note—

For the registration of an allotment of shares mentioned in subsection (1), see the Uncertificated Securities Market Rules.

143B. Power of Court in relation to non-compliance with section 143A(1)

- (1) If a company fails to comply with section 143A(1) in relation to an allotment of shares, a person to whom shares are allotted under the allotment (*allottee*) may serve a notice on the company requesting the company to comply with subsection (2) (*allottee's notice*).
- (2) The company must, within 10 days after the allottee's notice is served on the company, give notice to the system operator in accordance with subsection (3) requesting the system operator to register under the Uncertificated Securities Market Rules the allotment.
- (3) The notice to the system operator—
 - (a) must contain the particulars required under section 143A(2); and

- (b) must be given in the manner required under that section.
- (4) If the company does not comply with subsection (2), the person who serves the allottee's notice may apply to the Court for an order under subsection (5).
- (5) On an application under subsection (4), the Court may—
 - (a) make an order directing the company and any officer of the company to give, within the period and in the manner specified in the order, a notice to the system operator—
 - (i) containing the particulars specified in the order; and
 - (ii) requiring the system operator to register under the Uncertificated Securities Market Rules the allotment; or
 - (b) make any other order, in favour of the applicant or any other allottee, that the Court considers appropriate in the particular circumstances.
- (6) The order may provide that all costs of and incidental to the application are to be borne by the company or by an officer of the company responsible for the non-compliance.”.

25. Section 144 amended (issue of share certificate on allotment)

- (1) Section 144—

Repeal subsection (2)

Substitute

- “(2) This section does not apply if—

- (a) the conditions of issue of the shares provide otherwise; or
- (b) the allotment is an allotment of shares to which section 143A(1) applies.”.

- (2) At the end of section 144—

Add

“**Note—**

For matters relating to an allotment of shares to which section 143A(1) applies, see also the Uncertificated Securities Market Rules.”.

26. Section 150 amended (requirement for instrument of transfer)

After section 150(2)—

Add

- “(3) Subsection (1) does not apply to a transfer of participating shares effected under the Uncertificated Securities Market Rules.

Note—

For matters relating to the registration of a transfer of participating shares effected under the Uncertificated Securities Market Rules, see the Rules.”.

27. Section 151 amended (registration of transfer or refusal of registration)

- (1) Section 151(1)—

Repeal

“the transfer”

Substitute

“the instrument of transfer mentioned in section 150(1)”.

- (2) Section 151(2)—

Repeal

“after the transfer”

Substitute

“after the instrument of transfer”.

28. Section 152 amended (order of Court for registration)

- (1) Section 152(1), after “a transfer”—

Add

“under section 151”.

- (2) At the end of section 152—

Add

“Note—

For the power of the Court to make an order for the registration of a transfer of participating shares effected under the Uncertificated Securities Market Rules, see the Rules.”.

29. Section 153 amended (transfer by personal representative)

Section 153—

Repeal

“at the time of execution of the instrument of transfer”

Substitute

“immediately before the transfer”.

30. Section 155 amended (issue of share certificate on transfer)

- (1) After section 155(2)—

Add

“(2A) Subsection (1) does not apply to a transfer of participating shares effected under the Uncertificated Securities Market Rules.”.

- (2) Section 155(3)—

Repeal

“a transfer”

Substitute

“a transfer of any other shares”.

31. Section 158 amended (registration or refusal of registration)

- (1) Section 158, heading, after “of registration”—

Add

“—non-participating company”.

- (2) Section 158(1), after “to shares”—

Add

“in a non-participating company”.

- (3) Section 158(2)(a), after “the person”—

Add

“, in its register of members,”.

- (4) Section 158(4)(b), after “the person”—

Add

“, in its register of members,”.

32. Section 158A added

After section 158—

Add

“158A. Registration or refusal of registration—participating company

- (1) This section applies if—
 - (a) the right to shares in a participating company is transmitted to a person by operation of law; and
 - (b) the person notifies the company in writing that the person (*transmittee*) wishes to be registered as a member of the company in respect of the shares (*notification*).
- (2) In the case specified in subsection (3), the company must—
 - (a) within the period specified in the Uncertificated Securities Market Rules, by notice given to the system operator, request the system operator to register the transmittee, in the company’s members register (uncertificated shares), as a member of the company in respect of the shares; or
 - (b) within 2 months after receiving the notification, send the transmittee notice of the company’s refusal to give the notice described in paragraph (a).
- (3) The case is where the transmittee has indicated, in the notification and under the Uncertificated Securities Market Rules, that the transmittee wishes to hold the shares in uncertificated form immediately after the transmittee is registered, in the company’s register of members, as a member of the company in respect of the shares.
- (4) In any other case, the company must, within 2 months after receiving the notification—

- (a) register the transmittee, in its members register (certificated shares), as a member of the company in respect of the shares; or
 - (b) send the transmittee notice of refusal of registration.
- (5) If—
 - (a) in the case specified in subsection (3), the company refuses to give the notice described in subsection (2)(a) to the system operator; or
 - (b) in any other case, the company refuses registration, the transmittee may request a statement of the reasons for the refusal (*statement of reasons*).
- (6) If a transmittee makes a request under subsection (5) because the company refuses to give the notice described in subsection (2)(a), the company must, within 28 days after receiving the request—
 - (a) send the transmittee the statement of reasons; or
 - (b) by notice given to the system operator, request the system operator to register the transmittee, in the company’s members register (uncertificated shares), as a member of the company in respect of the shares.
- (7) A notice given to the system operator under subsection (2)(a) or (6)(b)—
 - (a) must contain the particulars specified in the Uncertificated Securities Market Rules; and
 - (b) must be given in the manner specified in the Rules.

- (8) If a transmittee makes a request under subsection (5) because the company refuses registration, the company must, within 28 days after receiving the request—
- (a) send the transmittee the statement of reasons; or
 - (b) register the transmittee, in its members register (certificated shares), as a member of the company in respect of the shares.
- (9) If a company contravenes subsection (2), (4), (6) or (8), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.

Note—

For matters relating to the registration of a transmittee, in the members register (uncertificated shares) of a participating company, as a member of the company, see the Uncertificated Securities Market Rules.”.

33. Section 159 amended (order of Court for registration)

- (1) Section 159(1)—

Repeal

“refuses registration under section 158”

Substitute

“gives a refusal referred to in section 158(3) or 158A(5)”.

- (2) Section 159—

Repeal subsection (2)

Substitute

- “(2) On an application under subsection (1), if the Court is satisfied that the application is well-founded, the Court may—
- (a) for a refusal of registration referred to in section 158(3), order the company to register, in its register of members, the person as a member of the company in respect of the shares;
 - (b) for a refusal to give the notice described in section 158A(2)(a) to the system operator, order the company to give notice to the system operator requiring the system operator to register the person, in the company’s members register (uncertificated shares), as a member of the company in respect of the shares; and
 - (c) for a refusal of registration referred to in section 158A(5)(b), order the company to register the person, in its members register (certificated shares), as a member of the company in respect of the shares.”.

34. Sections 626A and 626B added

After section 626—

Add

“626A. Each company must have register of members

For each company, there is to be a register of its members.

626B. Register of members of participating company

The register of members of a participating company is to consist of—

- (a) the members register (certificated shares); and

(b) the members register (uncertificated shares).

Note—

For the requirements for keeping the members register (certificated shares) and the members register (uncertificated shares) of a participating company, see the Uncertificated Securities Market Rules.”.

35. Section 627 amended (register of members)

(1) Section 627, heading, after “**members**”—

Add

“**of non-participating company**”.

(2) Section 627—

Repeal subsection (1)

Substitute

“(1) A non-participating company must keep the register of its members.

(1A) The register must be kept in the English or Chinese language.”.

(3) Section 627(2)—

Repeal

“A company must enter in the register of members”

Substitute

“Subject to section 627A, the following particulars must be entered in the register of members of a non-participating company”.

(4) Section 627(3)—

Repeal

“In the case of a company having a share capital, the company must enter in the register of members, with the names and addresses of the members, a statement of”

Substitute

“If a non-participating company has a share capital, the following statements must be entered in the register of members, with the names and addresses of the members”.

(5) Section 627(3)(a), English text, before “the shares”—

Add

“a statement of”.

(6) Section 627(3)(b), English text, before “the amount”—

Add

“a statement of”.

(7) Section 627(4)—

Repeal

“A company must enter in the register of members the particulars required under subsections (2) and (3)”

Substitute

“The particulars required under subsections (2) and (3) must be entered in the register”.

(8) Section 627(6), after “A”—

Add

“non-participating”.

(9) Section 627(7)—

Repeal

“If a company contravenes subsection (1), (4) or (6)”

Substitute

“If subsection (1), (1A), (4) or (6) is contravened”.

(10) At the end of section 627—

Add

“**Note—**

For the requirement for keeping a register of members of a participating company, see the Uncertificated Securities Market Rules.”.

36. Section 627A added

After section 627—

Add

“627A. Exceptions to section 627—when a participating company changes to a non-participating company

(1) This section applies if—

(a) a company ceases to be a participating company and becomes a non-participating company (*change*); and

(b) because of the change, section 627 applies to the company.

(2) Section 627(2) and (3) does not require any particulars relating to an event that took place, or a fact that existed, before the change to be entered in the register of members of the company, unless those particulars are required under the Uncertificated Securities Market Rules as in force immediately before the change to be kept, or included, in the members register (certificated shares).

(3) The particulars that are required by the operation of subsection (2) to be entered in the register of members of

the company are to be regarded as having been entered in the register in compliance with section 627(4) if they are contained in the register immediately after the change.

Note—

For matters relating to the keeping of the members register (uncertificated shares) of such a company on or after the change, see the Uncertificated Securities Market Rules.”.

37. Section 628 amended (place where register must be kept)

(1) Section 628, heading, after “**kept**”—

Add

“**—non-participating company**”.

(2) Section 628(1), after “A”—

Add

“non-participating”.

(3) Section 628(2), after “A”—

Add

“non-participating”.

(4) Section 628(3), after “A”—

Add

“non-participating”.

(5) At the end of section 628—

Add

“**Note—**

As to where any record of the members of a participating company is to be kept, see the Uncertificated Securities Market Rules.”.

38. Section 629 amended (statement that company has only one member)

(1) Section 629(1)—

Repeal

“of a company”

Substitute

“of a non-participating company”.

(2) Section 629(1)—

Repeal

“under”

Substitute

“for the purposes of”.

(3) Section 629(2)—

Repeal

“a company”

Substitute

“a non-participating company”.

(4) Section 629(2)—

Repeal

“under”

Substitute

“for the purposes of”.

(5) At the end of section 629—

Add

“Note—

For the case where the number of members of a participating company falls to one, see the Uncertificated Securities Market Rules.”.

39. Section 630 amended (index of members)

(1) Section 630, heading, after “members”—

Add

“—non-participating company”.

(2) Section 630(1), after “A”—

Add

“non-participating”.

(3) At the end of section 630—

Add

“Note—

For the requirement for keeping an index of the names of the members of a participating company, see the Uncertificated Securities Market Rules.”.

40. Section 631 amended (right to inspect and request copy)

(1) Section 631, heading, after “copy”—

Add

“—non-participating company”.

(2) Section 631(1)—

Repeal

“a company”

Substitute

“a non-participating company”.

- (3) At the end of section 631—

Add

“Note—

For the right to inspect the register of members of a participating company, and request a copy of any part of it or any other record of the members of such a company, see the Uncertificated Securities Market Rules.”.

41. Section 632 amended (power to close register of members)

- (1) Section 632, heading, after “**members**”—

Add

“**—non-participating company**”.

- (2) Section 632(1), after “A”—

Add

“non-participating”.

- (3) Section 632(2)(b)—

Repeal

“in the case of any other company”

Substitute

“if the company is not a listed company”.

- (4) At the end of section 632—

Add

“Note—

For the powers to close the members register (certificated shares) and the members register (uncertificated shares) of a participating company, see the Uncertificated Securities Market Rules.”.

42. Section 633 amended (power of Court to rectify register)

- (1) Section 633(2)—

Repeal paragraph (b)

Substitute

- “(b) subject to subsection (2A) and section 167, make the following orders—

- (i) an order to rectify the register; and
- (ii) an order on the company to pay damages for any loss sustained by any party aggrieved.”.

- (2) After section 633(2)—

Add

- “(2A) Unless either or both of the conditions in subsection (2B) are satisfied, the Court must not make an order on a participating company under subsection (2)(b)(ii) to pay damages for any loss caused by an act or omission of the system operator responsible for keeping the members register (uncertificated shares) of the company.

- (2B) The conditions are—

- (a) the act or omission is done or made by the system operator on the instructions of the company; and
- (b) the act or omission is caused by fraud or negligence of the company.”.

- (3) At the end of section 633—

Add

“Note—

As to whether the Court has the power to order a participating company or any other person to pay damages for any loss caused by any other act or omission of a system operator, see the Uncertificated Securities Market Rules.”.

**43. Section 635 amended (register to be proof in the absence of
contrary evidence)**

At the end of section 635—

Add

“Note—

For the evidential value of the matters contained in the register of
members of a participating company, see the Uncertificated
Securities Market Rules.”.

44. Section 637 amended (keeping of branch register)

- (1) Section 637, heading, after “register”—

Add

“—non-participating company”.

- (2) Section 637(1), after “branch register”—

Add

“of a non-participating company”.

- (3) Section 637(2), after “A”—

Add

“non-participating”.

- (4) Section 637(3), after “A”—

Add

“non-participating”.

- (5) Section 637(4), after “branch register”—

Add

“of a non-participating company”.

- (6) Section 637(5)—

Repeal

“a company”

Substitute

“a non-participating company”.

45. Section 637A added

After section 637—

Add

“637A. Keeping of branch register—participating company

- (1) A branch register of a participating company must be
kept in the same manner in which the register of
members of a non-participating company is by this
Ordinance required to be kept.
- (2) A participating company that keeps a branch register
may close it in the same manner in which the register of
members of a non-participating company may be closed
under section 632, except that the advertisement
mentioned in that section must be inserted in a
newspaper circulating generally in the place in which the
branch register is kept.
- (3) A participating company that keeps a branch register—
- (a) must cause a duplicate of it to be kept at the place
at which the company’s members register
(certificated shares) is kept; and
- (b) must, within 15 days after an entry is made in the
branch register—
- (i) transmit a copy of the entry to its registered
office; and
- (ii) update the duplicate of the branch register.

- (4) A duplicate of a branch register of a participating company is to be regarded for all the purposes of this Ordinance as part of the register of members of the company.
- (5) Subject to the provisions of this Ordinance, a participating company may by its articles make any provision that it thinks fit respecting the keeping of branch registers.
- (6) If a company contravenes subsection (3), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.”.

46. Section 654 amended (meaning of *company records*)

Section 654, definition of *company records*, after “Ordinance”—

Add

“or the Uncertificated Securities Market Rules”.

47. Section 655 amended (form of company records)

- (1) Section 655(4), after “by this Ordinance”—

Add

“or the Uncertificated Securities Market Rules”.

- (2) Section 655(4), after “under this Ordinance”—

Add

“or the Rules”.

48. Section 696 amended (obligations of offeror with right to buy out minority shareholders)

After section 696(4)—

Add

“(5) Subsection (3)(a)(ii) does not require the offeror to send to the company an instrument of transfer of any shares, if—

- (a) the transfer is effected under the Uncertificated Securities Market Rules; and
- (b) no instrument of transfer is required under those Rules for the registration of the transfer.”.

49. Section 908 repealed (paperless holding and transfer of shares and debentures)

Section 908—

Repeal the section.

50. Schedule 8 repealed (amendments relating to paperless holding and transfer of shares and debentures)

Schedule 8—

Repeal the Schedule.

Part 4

Related Amendments

Division 1—Amendments to Companies (Winding-up) Rules (Cap. 32 sub. leg. H)

51. Appendix amended (forms)

(1) Appendix, Form 73—

Repeal

“19” (wherever appearing)

Substitute

“20”.

(2) Appendix, Form 73—

Repeal

“Upon applying for payment **this notice must be produced entire**, together with the share certificate. If you do not attend personally you must forward the share certificate and fill up and sign the subjoined forms of RECEIPT and AUTHORITY TO DELIVER, when a cheque or money order payable to your order will be delivered in accordance with the AUTHORITY.”

Substitute

“When applying for payment, this notice in its complete form must be produced together with the following evidence (*required evidence*)—

- (a) if the share is in uncertificated form within the meaning of section 2(3A)(a) of the

Companies Ordinance (Cap. 622), the evidence of your title to the share as provided for under the Uncertificated Securities Market Rules*; and

- (b) if the share is not in uncertificated form, the share certificate.

* Uncertificated Securities Market Rules are the rules made under section 101AAO(1) of the Securities and Futures Ordinance (Cap. 571).

If you do not attend in person, you must fill in and sign the form of RECEIPT and the form of AUTHORITY FOR DELIVERY (*AUTHORITY*) subjoined to this notice and forward them and the required evidence to my office. A cheque or money order will then be delivered in accordance with the AUTHORITY.”.

Division 2—Amendments to Stamp Duty Ordinance (Cap. 117)

52. Section 2 amended (interpretation)

Section 2(1), definition of *stamp*, after paragraph (d)—

Add

- “(e) an imprint on a contract note made in accordance with section 5AA(3);”.

53. Section 4 amended (charging of, liability for, and recovery of stamp duty)

After section 4(3A)—

Add

“(3B) If the amount of the stamp duty imprinted on a contract note stamped under section 5AA(2) has not been paid to the Collector in the manner provided by the arrangement approved under section 5AAB(1), the contract note is deemed for the purposes of subsection (3) to be an instrument that is chargeable with the stamp duty and that is not duly stamped in respect of the duty.”.

54. Sections 5AA and 5AAB added

After section 5—

Add

“5AA. Additional provision on methods of stamping—sale or purchase of Hong Kong stock

- (1) This section applies to a contract note if it is a contract note—
 - (a) to which an arrangement approved under section 5AAB(1) relates; and
 - (b) in respect of which the conditions in section 5AAB(2)(b) are satisfied.
- (2) Without affecting section 5(1) and (2), a contract note may be stamped in accordance with subsection (3) by a person authorized by the Collector for the purposes of this subsection.
- (3) The contract note may be stamped by imprinting on it, in the manner specified by the Collector—
 - (a) the amount of the stamp duty chargeable on the contract note; and

- (b) a note to the effect that the amount of the chargeable stamp duty has been or will be paid in the manner provided by the arrangement.
- (4) Subject to section 4(3B), a contract note stamped under subsection (2) is to be treated as duly stamped with the amount of the stamp duty imprinted on the note and within the time for stamping the note.
- (5) A person commits an offence if the person, with intent to defraud the Government—
 - (a) imprints on a contract note, the matters described in subsection (3)(a) and (b) without an authorization under subsection (2); or
 - (b) imprints on a contract note any matter, as a matter described in subsection (3)(a) or (b), which is false in a material particular.

5AAB. Approval of arrangement for purposes of section 5AA

- (1) For the purposes of section 5AA, the Collector may approve an arrangement for collecting any stamp duty chargeable on a contract note specified in subsection (2) (*specified contract note*).
- (2) The contract note is a contract note—
 - (a) to which the arrangement relates; and
 - (b) in respect of which the following conditions are satisfied—
 - (i) the contract note is not a contract note to which an agreement under section 5A relates;
 - (ii) stamp duty is chargeable under head 2(1) in the First Schedule (*head 2(1)*) on the contract note;

- (iii) the transfer under the sale or purchase to which the contract note relates is a transfer effected under the Uncertificated Securities Market Rules; and
 - (iv) under the Rules, an instrument of transfer is not required for the registration of the transfer.
- (3) The Collector must not approve an arrangement under subsection (1) unless the arrangement provides for—
 - (a) the duties of a person authorized by the Collector for the purposes of section 5AA(2) (*authorized person*), including the following duties of an authorized person if the person effects a sale or purchase the contract note of which is a contract note to which the arrangement relates—
 - (i) to make a declaration as to whether any stamp duty is chargeable under head 2(1) on the contract note;
 - (ii) if any stamp duty is chargeable under head 2(1) on the contract note, to make a further declaration as to whether the stamp duty has been paid to the Collector;
 - (b) the payment by an authorized person to the Collector of the stamp duty chargeable on a specified contract note that will be stamped under section 5AA(2); and
 - (c) the imprinting by an authorized person, on the specified contract note, of the matters described in section 5AA(3)(a) and (b).
- (4) An approval may be granted under subsection (1) subject to any conditions specified by the Collector.

- (5) For the purposes of collecting any stamp duty chargeable on a specified contract note to which an arrangement approved under subsection (1) relates, the Collector is entitled to have access to a declaration made under the arrangement.
- (6) If an authorized person—
 - (a) effects a sale or purchase the contract note of which is a specified contract note to which an arrangement approved under subsection (1) relates; and
 - (b) makes, in respect of the sale or purchase, a declaration mentioned in subsection (3)(a)(i) or (ii) that is false in a material particular,the person incurs a penalty at level 2 which is recoverable by the Collector as a civil debt due to the Government.
- (7) In this section—
 - purchase* (購買)—
 - (a) means a purchase within the meaning of section 19, and includes a purchase in a transaction deemed under that section (other than subsection (12)) to be a sale and purchase for the purposes of this Ordinance; but
 - (b) does not include a purchase the contract note of which is a contract note to which an agreement under section 5A relates;
 - sale* (售賣)—
 - (a) means a sale within the meaning of section 19, and includes a sale in a transaction deemed under that

section (other than subsection (12)) to be a sale and purchase for the purposes of this Ordinance; but

- (b) does not include a sale the contract note of which is a contract note to which an agreement under section 5A relates;

Uncertificated Securities Market Rules (《無紙證券市場規則》) means the rules made under section 101AAO(1) of the Securities and Futures Ordinance (Cap. 571).

- (8) In this section—

- (a) a reference to a person who effects a sale includes a person deemed under section 19 to be a person effecting the sale; and
- (b) a reference to a person who effects a purchase includes a person deemed under section 19 to be a person effecting the purchase.”.

55. Section 19 amended (contract notes, etc. in respect of sale and purchase of Hong Kong stock)

After section 19(1F)—

Add

“(1G) For the purposes of subsection (1), if—

- (a) the person who effects the sale or purchase of Hong Kong stock makes, in respect of the sale or purchase, a contract note to which section 5AA applies; and
- (b) the contract note is stamped by the person under section 5AA(2),

the person is to be regarded as having also executed the contract note.”.

56. Section 58A amended (representations may be made to Collector before certain penalties are imposed)

Section 58A(1), before “5A(4)”—

Add

“5AAB(6),”.

57. Section 58B amended (remission of certain penalties)

Section 58B, before “5A(4)”—

Add

“5AAB(6),”.

58. First Schedule amended

First Schedule—

Repeal

“[ss. 2, 4, 5,”

Substitute

“[ss. 2, 4, 5, 5AAB,”.

**Division 3—Amendments to Mental Health Ordinance
(Cap. 136)**

59. Section 17 amended (committee to execute instruments)

- (1) Section 17, heading, after “instruments”—

Add

“etc.”.

- (2) Section 17—

Repeal subsection (1)

Substitute

- “(1) This section applies if the Court makes any of the following orders—
- (a) an order for a conveyance or instrument of transfer to be executed in respect of a disposition of the estate of a mentally incapacitated person;
 - (b) an order for any other thing to be done to give effect to a disposition of any securities in the estate that are, under the Uncertificated Securities Market Rules, permitted to be transferred without an instrument.
- (1A) The committee of the estate of the mentally incapacitated person must, in the name and on behalf of the person, act in accordance with an order mentioned in subsection (1).”.
- (3) After section 17(2)—
- Add**
- “(3) In subsection (1)—
- disposition** (處置), in relation to the estate of a mentally incapacitated person, means a sale, mortgage or other disposition of the estate;
- Uncertificated Securities Market Rules** (《無紙證券市場規則》) means the rules made under section 101AAO(1) of the Securities and Futures Ordinance (Cap. 571).”.

Division 4—Amendments to Crimes Ordinance (Cap. 200)

60. **Section 84 amended (making false entry in contract for sale of shares)**
- (1) Section 84—
- Renumber the section as section 84(1).**

- (2) Section 84(1)—
- Repeal**
- “shares or stock transferable by any deed or written instrument”
- Substitute**
- “any transferable share or stock”.
- (3) After section 84(1)—
- Add**
- “(2) In this section—
- transferable share or stock** (可轉讓股份或股額) means—
- (a) any share or stock transferable by deed or other instrument; or
 - (b) any share or stock transferable, without an instrument, under the Uncertificated Securities Market Rules;
- Uncertificated Securities Market Rules** (《無紙證券市場規則》) means the rules made under section 101AAO(1) of the Securities and Futures Ordinance (Cap. 571).”.

Division 5—Amendment to Companies Ordinance (Cap. 622)

61. **Section 632 amended (power to close register of members)**
- Section 632—
- Repeal subsection (2)**
- Substitute**

- “(2) A notice for the purposes of subsection (1) must be given by advertisement in a newspaper circulating generally in Hong Kong.”.
-

Explanatory Memorandum

The main purpose of this Bill is to amend the Securities and Futures Ordinance (Cap. 571) (*SFO*), the Companies Ordinance (Cap. 622) (*CO*) and other enactments, including the Stamp Duty Ordinance (Cap. 117) (*SDO*), to facilitate the establishment and implementation of an uncertificated securities market regime (*new regime*) in Hong Kong.

2. The main framework of the new regime is to be provided for in a new Part (*Part IIIAA*) to be added to the SFO (see Part 2 of the Bill) and in the CO to be amended by Part 3 of the Bill. After the enactment of the new Part IIIAA, rules made under it (*Uncertificated Securities Market Rules*) will regulate the uncertificated securities market environment.
3. Under the new regime, securities that are listed or to be listed in Hong Kong and that are specified in the new Schedule (*Schedule 3A*) to be added to the SFO (*prescribed securities*) may, under the new Part IIIAA, be evidenced and transferred without an instrument.
4. As the new regime will be implemented by phases and the first phase will cover shares in a body corporate incorporated in Hong Kong or elsewhere, certain provisions in the CO that apply to such shares will need to be amended.
5. A new stamping method is also introduced by the Bill for the new regime (see Division 2 of Part 4 of the Bill).

Part 2—Amendments to SFO

6. Under the new regime, a system operator of an uncertificated securities market system (*system operator*) may permit any prescribed securities to be transferred through the system.

7. The system operator of an uncertificated securities market system—
- (a) must be a recognized clearing house within the meaning of section 1 of Part 1 of Schedule 1 (*recognized clearing house*); and
 - (b) must be approved by the Securities and Futures Commission (*SFC*) under the new Part IIIAA to operate and maintain the system.

Note—

See new section 101AAC of the SFO as amended by the Bill (*amended SFO*) for the meaning of uncertificated securities market system.

8. In addition, under the new regime, only persons who are permitted by the system operator of an uncertificated securities market system under rules made under section 40 of the amended SFO may send and receive authenticated instructions by or through the system (*system participant*).
9. To implement the new regime, clause 3 amends section 38 (duties of recognized clearing house) to impose duties on a recognized clearing house that is also a system operator.
10. Clause 4 amends section 40 (rules by recognized clearing houses) to empower a recognized clearing house to make rules for the proper regulation and efficient operation of an uncertificated securities market system that it operates and for the proper regulation of its system participants.
11. Clause 5 amends section 42 (production of records, etc. by recognized clearing house) to empower the SFC to require a recognized clearing house that is also the system operator of an uncertificated securities market system to provide certain other documents and information, including documents and information relating to the operation and maintenance of the system.

12. Clause 7 amends section 63 (duties of recognized exchange controller) to impose additional duties on the controller of a recognized clearing house that is also the system operator.
13. Clause 8 amends section 71 (production of records, etc. by recognized exchange controller) to empower the SFC to require the controller of a recognized clearing house that is also the system operator of an uncertificated securities market system to provide certain documents and information, including documents and information relating to the operation and maintenance of the system.
14. Clause 9 amends section 76 (fees to be approved by Commission) to provide for the approval by the SFC of fees to be imposed by a recognized clearing house in its capacity as a system operator.
15. Clause 10 amends section 91 (supply of information) to provide for the supply, by a recognized clearing house that is also a system operator, of information on the affairs of its system participants.
16. Clause 11 amends section 92 (additional powers of Commission—restriction notices) so that a system participant would also be protected under that section, and would not incur any civil liability in respect of anything done or omitted to be done by the participant in good faith in compliance or purported compliance with a restriction notice given by the SFC under that section.
17. Clause 12 introduces a new Part IIIAA to the SFO.
18. There are 3 new sections in Division 1 of new Part IIIAA. New section 101AA provides for the interpretation of certain words and expressions used in that Part. New section 101AAB seeks to explain the meaning of prescribed securities used in that Part, and new section 101AAC seeks to explain the meaning of uncertificated securities market system used in that Part.

Note—

It is provided in new section 101AAB that securities are prescribed securities if—

- (a) the securities fall within a class or description of securities specified in the new Schedule 3A to the amended SFO; and
- (b) the securities are listed or to be listed on a recognized stock market within the meaning of section 1 of Part 1 of Schedule 1.

19. Division 2 of new Part IIIAA (new sections 101AAD, 101AAE and 101AAF) provides for the general principles to be adopted for the new regime.

20. New section 101AAD provides for the first principle—title to prescribed securities may only be evidenced and transferred without an instrument—

- (a) by or through an uncertificated securities market system operated and maintained by the system operator of the system; and
- (b) under the Uncertificated Securities Market Rules.

21. The second principle is set out in new section 101AAE.

22. For prescribed securities that are shares in a corporation within the meaning of section 1 of Part 1 of Schedule 1, new section 101AAE provides that if there is a conflict or inconsistency between new section 101AAD and the Uncertificated Securities Market Rules (*specified enactments*) and any of the following provisions and terms—

- (a) the provisions of the constitution of the corporation; and
- (b) the terms of issue of the shares,

the specified enactments prevail to the extent of the conflict or inconsistency.

23. As for other prescribed securities, if there is a conflict or inconsistency between the specified enactments and the terms of issue of the securities, the specified enactments prevail to the extent of the conflict or inconsistency.

24. New section 101AAF provides for the third principle.

25. Under new section 101AAF—

- (a) if the prescribed securities are shares in or debentures of a body corporate incorporated in a place outside Hong Kong, new section 101AAD, new section 101AAE and the Uncertificated Securities Market Rules (*specified enactments*) apply to those securities to the extent to which the application is neither prohibited under nor in conflict or inconsistent with—

- (i) the law of the place in which the body corporate is incorporated; or
- (ii) the law under which the securities are constituted; and

- (b) if the prescribed securities are not shares in or debentures of such a body corporate and are constituted under the law of a place outside Hong Kong, the specified enactments apply to those securities to the extent to which the application is neither prohibited under nor in conflict or inconsistent with the law under which the securities are constituted.

26. Division 3 of new Part IIIAA (new sections 101AAG to 101AAO) deals with other matters relating to the new regime.

27. New section 101AAG empowers the SFC to approve a recognized clearing house to be a system operator (*section 101AAG approval*), whereas new section 101AAI provides for the power of the SFC to

- withdraw a section 101AAG approval granted to a recognized clearing house.
28. New section 101AAH empowers the SFC to impose, amend or revoke a condition with regard to a section 101AAG approval that has been granted to a recognized clearing house.
29. As for new section 101AAK, it confers power on the SFC to direct a recognized clearing house to cease to operate or maintain an uncertificated securities market system or to cease to provide or operate any other facilities or services provided or operated by the clearing house in connection with the operation of the system.
30. Under new section 101AAK, the SFC also has the power to permit a recognized clearing house to continue to carry on any activities affected by the direction.
31. The SFC may, however, exercise the powers under new sections 101AAG, 101AAH, 101AAI and 101AAK only after consultation with the Financial Secretary.
32. New section 101AAM provides for the duties of the SFC to publish notice of certain facts or particulars in the Gazette.
33. An appeal channel is available under new section 101AAN to a person on whom a notice is served by the SFC under new section 101AAI or 101AAK. Under new section 101AAN, the appeal may be made to the Chief Executive in Council.
34. New section 101AAO is the rules making power provision and the Uncertificated Securities Market Rules will be made under that section.
35. Clause 13 amends section 209 (general provisions relating to sections 204, 205, 206 and 208) so that if the SFC decides to impose, withdraw, substitute or vary a prohibition or requirement under section 204, 205, 206 or 208 in respect of or with reference to

- a system participant, the SFC would have a duty to inform the recognized clearing house concerned of the decision.
36. Clause 14 amends section 212 (winding-up orders and bankruptcy orders) so that if the SFC has decided to present a petition under section 212(1) for a system participant to be wound up, the SFC has a duty to inform the recognized clearing house concerned in accordance with the amended section 212(3).
37. Clause 15 amends section 213 (injunctions and other orders) so that if the SFC has decided to apply to the Court of First Instance of the High Court of the Hong Kong Special Administrative Region of the People's Republic of China (*Court of First Instance*) to make any order specified in section 213(2) affecting a system participant, the SFC has a duty to inform the recognized clearing house concerned in accordance with the amended section 213(3).
38. Clause 16 amends section 336 (register of interests in shares and short positions) which requires a listed corporation to keep a register of interests in shares and short positions.
39. Clause 17 amends the definition of *rules* in Schedule 1 (interpretation and general provisions) and adds new definitions to that Schedule.
40. Under section 10(2)(b), the SFC may not delegate a function specified in Part 2 of Schedule 2 (Securities and Futures Commission). Clause 18 amends that Part so that certain new functions conferred by the Bill on the SFC are also not delegable under that section.
41. Clause 19 adds a new Schedule 3A to the SFO. The power to amend the Schedule is in new section 101AAB(2).

Part 3—Amendments to CO

42. Clause 20 amends section 2 (interpretation) to define certain words and expressions used in the CO as amended by the Bill. These expressions include *members register (certificated shares)*, *members register (uncertificated shares)*, *participating company*, *participating shares*, *system operator* and *uncertificated securities market system*. Under that clause—
- (a) *members register (certificated shares)* is defined to mean the register required under the Uncertificated Securities Market Rules to be kept by a participating company in respect of its members who hold shares in the company that are in certificated form;
 - (b) *members register (uncertificated shares)* is defined to mean the register required under the Uncertificated Securities Market Rules to be kept by a system operator in respect of the members of a participating company who hold shares in the company that are in uncertificated form;
 - (c) *participating company* is defined to mean a company any shares in which are permitted by the system operator of an uncertificated securities market system, within the meaning of the amended SFO, to be transferred through the system (*participating shares*).
43. Under section 134 (nature and transferability of shares), shares or other interests of a member in a company are transferable in accordance with the company's articles. Clause 21 amends that section so that any shares or other interests that are prescribed securities are transferable in accordance with those articles, subject to new Part IIIAA of the amended SFO and the Uncertificated Securities Market Rules.

44. Section 143 (registration of allotment) requires a company to register an allotment of shares. Since under the new regime, the requirement for a company that is not a participating company (*non-participating company*) and the requirement for a participating company would not be the same, clause 23 amends that section so that it only applies to a non-participating company and a new section (new section 143A) is added by clause 24 for a participating company.
45. A new section 143B is also added by clause 24 to empower the Court of First Instance to make certain orders if a participating company fails to comply with new section 143A(1).
46. Section 144 (issue of share certificate on allotment) requires a company to complete the share certificates and have them ready for delivery within 2 months after the allotment of the shares. Clause 25 amends that section so that it does not apply if the conditions of issue of the shares provide otherwise or the allotment is an allotment to which new section 143A(1) applies.
47. Under section 150 (requirement for instrument of transfer), a company must not register a transfer of shares in the company unless a proper instrument of transfer has been delivered to the company. Clause 26 adds a new subsection to that section so that section 150 does not apply to a transfer, effected under the Uncertificated Securities Market Rules, of shares that are participating shares.
48. Section 151 (registration of transfer or refusal of registration) deals with the registration of a transfer of shares in a company and the refusal of such registration. Clause 27 amends that section so that it applies only if an instrument of transfer is lodged with a company.
49. Section 152 (order of Court for registration) empowers the Court of First Instance to register a transfer of shares in a company. Clause

- 28 confines the power so that it could only be exercised in relation to a transfer to which the amended section 151 applies.
50. Section 153 (transfer by personal representative) provides for the transfer of shares or other interests of a deceased member of a company by the member's personal representative. Clause 29 amends that section to make sure that it applies to all such transfers, including those effected under the Uncertificated Securities Market Rules.
51. Section 155 (issue of share certificate on transfer) requires a company to complete the share certificates of its shares that are transferred and have them ready for delivery within the period specified in that section. Clause 30 amends that section so that it does not apply to a transfer, effected under the Uncertificated Securities Market Rules, of shares that are participating shares.
52. Section 158 (registration or refusal of registration) deals with the registration or refusal of registration of transmission of shares by operation of law. Clause 31 amends that section so that it only applies to a non-participating company. A new section 158A is added by clause 32 to deal with the registration or refusal of registration of transmission of shares in a participating company.
53. Clause 34 adds 2 new sections to the CO. New section 626A provides that every company must have a register of its members, and new section 626B provides that the register of members of a participating company is to consist of the members register (certificated shares) and the members register (uncertificated shares).
54. Section 627 (register of members) originally deals with the register of members of any company. Clause 35 amends that section so that it only applies to the register of members of a non-participating company.

55. A new section 627A is added by clause 36. That section provides for the exceptions to section 627 and applies if a participating company changes to a non-participating company.
56. Sections 628 (place where register must be kept), 630 (index of members), 631 (right to inspect and request copy) and 632 (power to close register of members) originally apply to any company. Clauses 37, 39, 40 and 41 amend those sections so that they only apply to a non-participating company.
57. Section 633 (power of Court to rectify register) provides for the power of the Court of First Instance to rectify the register of members of any company. Clause 42 imposes a restriction on that power so that the Court may make an order on a participating company to pay damages for any loss caused by an act or omission of the system operator responsible for keeping the members register (uncertificated shares) of the company only if—
- (a) the act or omission is done or made by the system operator on the instructions of the company; or
 - (b) the act or omission is caused by fraud or negligence of the company.
58. Section 637 (keeping of branch register) provides for the keeping of a branch register of a company. Clause 44 amends that section so that it only applies to a non-participating company.
59. A new section 637A is added by clause 45 to provide for the keeping of a branch register of a participating company.
60. Section 654 (meaning of *company records*) provides for the meaning of *company records* used in Division 3 of Part 12. Clause 46 expands its meaning so that the expression covers also any register, index, agreement, memorandum, minutes and other documents, other than any accounting records, required by the Uncertificated Securities Market Rules to be kept by a company.

61. Section 655 (form of company records) provides for the form of company records. Clause 47 amends that section to cover also company records required by the Uncertificated Securities Market Rules to be kept by a company.
62. Section 693 (offeror may give notice to buy out minority shareholders) provides for the right of an offeror to buy out minority shareholders. Subsection (3)(a)(ii) of section 696 (obligations of offeror with right to buy out minority shareholders) provides for the obligation of an offeror to send to the company, in certain circumstances, an instrument of transfer of certain shares.
63. Clause 48 amends section 696 so that the obligation under subsection (3)(a)(ii) of that section does not apply to a transfer if the transfer is effected under the Uncertificated Securities Market Rules and no instrument of transfer is required under those Rules for the registration of the transfer.
64. Clauses 49 and 50 provide for the repeal of section 908 (paperless holding and transfer of shares and debentures) and Schedule 8 (amendments relating to paperless holding and transfer of shares and debentures).

Part 4—Related amendments

Amendments to Companies (Winding-up) Rules

65. Division 1 deals with amendments to the Companies (Winding-up) Rules (Cap. 32 sub. leg. H).
66. Clause 51 introduces amendments to Form 73 (notice of return to contributories) of the Appendix to the Rules.

Amendments to SDO

67. Division 2 deals with amendments to the SDO.

68. Clause 52 amends the existing definition of **stamp** in section 2 (interpretation) to include an imprint on a contract note made in accordance with new section 5AA(3).

Note—

New section 5AA is an additional provision on methods of stamping. It applies to a contract note if the conditions specified in subsection (1) of that section are satisfied.

69. Section 4 (charging of, liability for, and recovery of stamp duty) is amended by clause 53. That clause adds a new section 4(3B) which provides that if the amount of the stamp duty imprinted on a contract note stamped under new section 5AA(2) has not been paid to the Collector of Stamp Revenue appointed under section 3 (**Collector**) in the manner provided by the arrangement approved under new section 5AAB(1), the contract note is deemed to be an instrument that is chargeable with the stamp duty and that is not duly stamped in respect of the duty.
70. Clause 54 adds a new section 5AA. The new section provides for a new stamping method for a contract note required to be made and executed under section 19(1). The new section however applies to such a contract note only if the following conditions are satisfied—
 - (a) the contract note is a contract note to which an arrangement approved under new section 5AAB(1) relates;
 - (b) the contract note is not a contract note to which an agreement under section 5A relates;
 - (c) stamp duty is chargeable under head 2(1) in the First Schedule on the contract note;
 - (d) the transfer under the sale or purchase to which the contract note relates is a transfer effected under the Uncertificated Securities Market Rules; and

- (e) under the Rules, an instrument of transfer is not required for the registration of the transfer.

71. Clause 54 also adds a new section 5AAB for the purposes of new section 5AA. New section 5AAB empowers the Collector to approve an arrangement for collecting stamp duty chargeable on a contract note to which the arrangement relates and in respect of which the conditions mentioned in paragraph 70(b), (c), (d) and (e) are satisfied.

72. Clause 55 amends section 19 (contract notes, etc. in respect of sale and purchase of Hong Kong stock) by adding a new subsection (1G) to that section. The new subsection provides that for the purposes of section 19(1), if—

- (a) the person who effects the sale or purchase of Hong Kong stock makes, in respect of the sale or purchase, a contract note to which new section 5AA applies; and
- (b) the contract note is stamped by the person under new section 5AA(2),

the person is to be regarded as having also executed the contract note.

73. Clause 56 amends section 58A (representations may be made to Collector before certain penalties are imposed) and clause 57 amends section 58B (remission of certain penalties), so that the 2 sections apply also to the civil penalty imposed under new section 5AAB(6).

Amendments to Mental Health Ordinance

74. Division 3 deals with amendments to the Mental Health Ordinance (Cap. 136).

75. Clause 59 amends section 17 (committee to execute instruments) to ensure that the provision may apply if the Court, within the

meaning of section 2, makes an order for anything to be done to give effect to a disposition of any securities in the estate of a mentally incapacitated person that are, under the Uncertificated Securities Market Rules, permitted to be transferred without an instrument.

Amendments to Crimes Ordinance

76. Division 4 deals with amendments to the Crimes Ordinance (Cap. 200).

77. Clause 60 amends section 84 (making false entry in contract for sale of shares). The amended section 84 expands the scope of application of the existing section to cover also documents of a bank, body corporate, company or society issuing any share or stock transferable, without an instrument, under the Uncertificated Securities Market Rules.

Further amendment to CO

78. Division 5 (clause 61) introduces further amendment to section 632. The amendment will come into operation on a day after the day on which the amendments to the CO in Part 3 of the Bill come into operation.

Chapter:	571	Securities and Futures Ordinance	Gazette Number	Version Date
Section:	38	Duties of recognized clearing house	L.N. 12 of 2003	01/04/2003

- (1) It shall be the duty of a recognized clearing house to ensure-
 - (a) so far as reasonably practicable, that there are orderly, fair and expeditious clearing and settlement arrangements for any transactions in securities or futures contracts cleared or settled through its facilities; and
 - (b) that risks associated with its business and operations are managed prudently.
- (2) In discharging its duty under subsection (1), a recognized clearing house shall-
 - (a) act in the interest of the public, having particular regard to the interest of the investing public; and
 - (b) ensure that the interest of the public prevails where it conflicts with the interest of the recognized clearing house.
- (3) A recognized clearing house shall operate its facilities in accordance with the rules made under section 40 and approved under section 41.
- (4) A recognized clearing house shall formulate and implement appropriate procedures for ensuring that its clearing participants comply with the rules of the clearing house.
- (5) A recognized clearing house shall at all times provide and maintain-
 - (a) adequate and properly equipped premises;
 - (b) competent personnel; and
 - (c) automated systems with adequate capacity, facilities to meet contingencies or emergencies, security arrangements and technical support,
 for the conduct of its business.

Chapter:	571	Securities and Futures Ordinance	Gazette Number	Version Date
Section:	40	Rules by recognized clearing houses	L.N. 12 of 2003	01/04/2003

- (1) Without limiting any of its other powers to make rules, a recognized clearing house may make rules for such matters as are necessary or desirable-
 - (a) for the proper regulation and efficient operation of the clearing or settlement facilities which it operates;
 - (b) for the proper regulation of its clearing participants;
 - (c) for the establishment and maintenance of compensation arrangements for the investing public.
- (2) A recognized clearing house shall make rules which-
 - (a) provide for the taking of proceedings or other action if a clearing participant appears to be unable, or likely to become unable, to meet his obligations in respect of all unsettled or open market contracts to which he is a party; and
 - (b) comply with Part 5 of Schedule 3.
- (3) Where a recognized clearing house takes default proceedings, all subsequent proceedings or other action taken under its rules for the settlement of market contracts to which the defaulter is a party shall be treated as taken under the default rules.
- (4) The Commission may, by notice in writing served on a recognized clearing house, request the clearing house-
 - (a) to make rules specified in the request within the period specified in that request; or
 - (b) to amend rules referred to in the request in the manner and within the period specified in that request.
- (5) Before making a request under subsection (4), the Commission shall consult the Financial Secretary and the recognized clearing house to which the request relates.
- (6) Where the Commission is satisfied that a recognized clearing house has not complied with a request referred to in subsection (4) within the period specified in the request, the Commission may make or amend the rules specified in the request instead of the recognized clearing house.

Chapter:	571	Securities and Futures Ordinance	Gazette Number	Version Date
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Section:	42	Production of records, etc. by recognized clearing house	L.N. 12 of 2003	01/04/2003
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(1) The Commission may, by notice in writing served on a recognized clearing house, require the clearing house to provide to the Commission, within such period as the Commission may specify in the notice-

- (a) such books and records kept by it in connection with or for the purposes of its business or in respect of any clearing and settlement arrangements for any transactions in securities or futures contracts; and
- (b) such other information relating to its business or any clearing and settlement arrangements for any transactions in securities or futures contracts,

as the Commission may reasonably require for the performance of its functions.

(2) A recognized clearing house served with a notice under subsection (1) which, without reasonable excuse, fails to comply with the notice commits an offence and is liable on conviction to a fine at level 5.

Chapter:	571	Securities and Futures Ordinance	Gazette Number	Version Date
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Section:	43	Withdrawal of recognition of clearing house and direction to cease to provide facilities	L.N. 12 of 2003	01/04/2003
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(1) Subject to subsections (3), (4) and (5), the Commission may, after consultation with the Financial Secretary, by notice in writing served on a recognized clearing house-

- (a) withdraw the company's recognition as a clearing house with effect from a date specified in the notice for the purpose; or
- (b) direct the clearing house to cease to provide or operate with effect from a date specified in the notice for the purpose such clearing or settlement facilities as are specified therein.

(2) The Commission may by the notice served under subsection (1) permit the recognized clearing house to continue, on or after the date on which the withdrawal or direction is to take effect, to carry on such activities affected by the withdrawal or direction as the Commission may specify in the notice for the purpose of-

- (a) closing down the operations of the clearing house; or
- (b) protecting the interest of the investing public or the public interest.

(3) The Commission may only serve a notice under subsection (1) in relation to a recognized clearing house that-

- (a) fails to comply with any requirement of this Ordinance or with a condition imposed under section 37;
- (b) is being wound up;
- (c) ceases to operate as a clearing house; or
- (d) requests the Commission to do so.

(4) Except where responding to a request under subsection (3)(d), the Commission shall not exercise its power under subsection (1) in relation to a recognized clearing house unless it has given the clearing house a reasonable opportunity of being heard.

(5) Except where responding to a request under subsection (3)(d), the Commission shall give the recognized clearing house not less than 14 days' notice in writing of its intention to serve a notice under subsection (1) and the grounds for doing so.

(6) Where the Commission withdraws a company's recognition as a clearing house under subsection (1)(a), it shall cause notice of that fact to be published in the Gazette.

(7) Where the Commission directs under subsection (1)(b) a recognized clearing house to cease to provide or operate any clearing or settlement facilities, it shall cause notice of the particulars of the direction to be published in the Gazette.

(8) A notice served under subsection (1)(a) shall not take effect-

- (a) subject to paragraph (b), until the expiration of the period within which an appeal against the notice may be made under section 44; or
- (b) if an appeal against the notice is made under section 44, until the appeal is withdrawn, abandoned or determined.

(9) A notice served under subsection (1)(b) shall take effect immediately.

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Section:	63	Duties of recognized exchange controller	L.N. 12 of 2003	01/04/2003
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(1) It shall be the duty of a recognized exchange controller which is a controller of a recognized exchange company or recognized clearing house to ensure so far as reasonably practicable-

- (a) an orderly, informed and fair market in securities or futures contracts traded on the stock market or futures market operated by the recognized exchange company or through the facilities of the company;
- (b) that there are orderly, fair and expeditious clearing and settlement arrangements for any transactions in securities or futures contracts cleared or settled through the facilities of the recognized clearing house;
- (c) that risks associated with its business and operations are managed prudently;
- (d) that the recognized exchange company or recognized clearing house (as the case may be) complies with any lawful requirement placed on it under any enactment or rule of law and with any other legal requirement placed on it.

(2) In discharging its duty under subsection (1)(a), (b) or (c), a recognized exchange controller shall-

- (a) act in the interest of the public, having particular regard to the interest of the investing public; and
- (b) ensure that the interest of the public prevails where it conflicts with the interest of the recognized exchange controller.

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Section:	71	Production of records, etc. by recognized exchange controller	L.N. 12 of 2003	01/04/2003
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(1) The Commission may, by notice in writing served on a recognized exchange controller, require the controller to provide to the Commission, within such period as the Commission may specify in the notice-

- (a) such books and records kept by it-
 - (i) in connection with or for the purposes of its business;
 - (ii) in respect of any trading in securities or futures contracts traded on the stock market or futures market operated by the recognized exchange company of which it is a controller, or through the facilities of that company; or
 - (iii) in respect of any clearing and settlement arrangements for any transactions in securities or futures contracts cleared or settled through the facilities of the recognized clearing house of which it is a controller; and
- (b) such other information relating to its business or any such trading or clearing and settlement arrangements,

as the Commission may reasonably require for the performance of its functions.

(2) A recognized exchange controller served with a notice under subsection (1) which, without reasonable excuse, fails to comply with the notice commits an offence and is liable on conviction to a fine at level 5.

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Section:	76	Fees to be approved by Commission	L.N. 12 of 2003	01/04/2003
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(1) No fee imposed on or after the commencement of this section by-

- (a) a recognized exchange controller in its capacity as a recognized exchange controller; or
- (b) a recognized exchange company or recognized clearing house-
 - (i) of which the recognized exchange controller is a controller; and
 - (ii) in its capacity as a recognized exchange company or recognized clearing house (as the case may be),

shall have effect unless the fee is specified in the rules of the recognized exchange controller, recognized exchange company or recognized clearing house (as the case may be) and has the approval in writing of the Commission.

(2) The Commission shall, in deciding whether or not to approve a fee referred to in subsection (1), have regard to, among other matters-

- (a) the level of competition (if any) in Hong Kong for the matter for which the fee is to be imposed; and
- (b) the level of fee (if any) imposed by another recognized exchange controller, recognized exchange company or recognized clearing house or any similar body outside Hong Kong, for the same or a

similar matter to which the fee relates.

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Section:	91	Supply of information	L.N. 12 of 2003	01/04/2003
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(1) The Commission, a recognized exchange company, a recognized clearing house, a recognized exchange controller or a recognized investor compensation company shall be entitled to supply each other with information about its affairs and-

- (a) in the case of a recognized exchange company, the affairs of any of its exchange participants;
- (b) in the case of a recognized clearing house, the affairs of any of its clearing participants;
- (c) in the case of a recognized exchange controller, the affairs of any of its subsidiaries; or
- (d) in the case of a recognized investor compensation company, any claim made against the compensation fund,

if the supply of information is reasonably required for the performance of-

- (i) in the case where the information is supplied to the Commission, the functions of the Commission under the relevant provisions; or
- (ii) in any other cases, the functions of the recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company to which the information is supplied, under this Part or their respective rules.

(2) The Commission may, by notice in writing served on a recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company, require it to supply the Commission with such information as the Commission may reasonably require for the performance of the functions of the Commission under any of the relevant provisions, including information in its possession relating to-

- (a) in the case of a recognized exchange company, the affairs of any of its exchange participants;
- (b) in the case of a recognized clearing house, the affairs of any of its clearing participants;
- (c) in the case of a recognized exchange controller, the affairs of any of its subsidiaries; or
- (d) in the case of a recognized investor compensation company, any claim made against the compensation fund.

(3) The supply of information under subsection (1) or (2) shall not be treated as publication for the purposes of the law of defamation and, without limiting the generality of section 380(3) but subject to section 378, a person supplying the information does not incur liability as a consequence thereof.

(4) Where any information is supplied under subsection (1) to a recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company, the company concerned, the clearing house or the controller to whom the information is supplied shall not disclose the information, or any part of it, to any other person without the consent of the Commission.

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Section:	92	Additional powers of Commission-restriction notices	L.N. 12 of 2003	01/04/2003
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(1) Subject to subsections (2), (6) and (14), where the Commission is satisfied that it is appropriate to do so-

- (a) in the interest of the investing public or in the public interest;
- (b) for the protection of investors; or
- (c) for the proper regulation of a recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company,

it may by notice in writing ("restriction notice") served on the exchange company, clearing house, exchange controller or investor compensation company do any or all of the following-

- (i) require the exchange company, clearing house, exchange controller or investor compensation company before the expiry of a period specified in the notice-
 - (A) to amend, supplement, withdraw or revoke, in the manner specified in the notice, a provision of its rules or other instrument so specified;
 - (B) to take such action relating to the management, conduct or operation of its business as may be so specified;

- (ii) prohibit the exchange company, clearing house, exchange controller or investor compensation company from doing, during a period so specified, such act or other thing relating to the management, conduct or operation of its business as may be so specified.
- (2) The Commission shall not serve a restriction notice unless-
 - (a) it has previously consulted the Financial Secretary in relation to the notice;
 - (b) it has previously requested in writing the exchange company, clearing house, exchange controller or investor compensation company concerned to put, or cause to be put, into effect a provision (which includes a request to refrain from doing any act or other thing) specified in the request and similar in effect to the requirement or prohibition specified in the restriction notice or, where there is more than one such requirement or prohibition so specified, provisions the combined effect of all of which is similar to the combined effect of the requirements or prohibitions so specified; and
 - (c) in the case of a request under paragraph (b) which-
 - (i) contains a provision requesting the exchange company, clearing house, exchange controller or investor compensation company concerned to amend, supplement, withdraw or revoke any provision of its constitution under subsection (1)(i), the provision has not been complied with before the expiration of the period specified in relation thereto in the request being not less than 45 days; or
 - (ii) contains a provision requesting the exchange company, clearing house, exchange controller or investor compensation company concerned to do or refrain from doing any act or other thing, the Commission is satisfied that the provision has not been complied with.
- (3) A recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company may appeal to the Chief Executive in Council against a restriction notice that requires the exchange company, clearing house, exchange controller or investor compensation company to amend, supplement, withdraw or revoke any provision of its constitution.
- (4) The decision of the Chief Executive in Council on an appeal under subsection (3) shall be final.
- (5) A restriction notice served under this section shall take effect immediately.
- (6) A period specified in a restriction notice in relation to a prohibition under subsection (1)(ii) shall not exceed 6 months beginning on the date of the notice.
- (7) The Commission may, after consultation with the Financial Secretary, by notice in writing served on the exchange company, clearing house, exchange controller or investor compensation company concerned, extend, for a period or successive periods of not more than 3 months each, the period during which a restriction notice is to remain in force.
- (8) Where a restriction notice is issued or extended under this section, the Commission may publish in the Gazette a copy of the notice or, as may be appropriate, particulars of the extension.
- (9) A restriction notice may, on the application of the Commission to the Court of First Instance, be enforced by an order of the Court as if it were a judgment or order of the Court.
- (10) Where a recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company is in breach of a requirement in a restriction notice under subsection (1)(i)(A) relating to a provision of its rules or other instrument-
 - (a) in the case of a requirement to amend or supplement such provision, the provision shall be deemed to have effect as if the requirement had been complied with; or
 - (b) in the case of a requirement to withdraw or revoke such provision, the provision ceases to have effect.
- (11) Where-
 - (a) a restriction notice includes a requirement described in subsection (1)(i)(A) and the requirement relates to the constitution of a company; and
 - (b) by virtue of subsection (10) the provision to which the requirement relates has effect as if the requirement had been complied with or has ceased to have effect (as the case may be),
 the Commission shall, as soon as may be, deliver to the Registrar of Companies a copy of the notice.
- (12) If there is an appeal under subsection (3) against the notice and the appeal is not withdrawn, the Commission shall, as soon as may be, inform the Registrar of Companies in writing of the outcome of the appeal.
- (13) Without limiting the generality of section 380(1), no civil liability, whether arising in contract, tort, defamation, equity or otherwise, shall be incurred by-
 - (a) a recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company;
 - (b) an officer or employee of a recognized exchange company, recognized clearing house, recognized

- exchange controller or recognized investor compensation company;
- (c) an exchange participant; or
- (d) a clearing participant,

in respect of anything done or omitted to be done in good faith in compliance or purported compliance with a restriction notice.

(14) This section shall not be construed as enabling the Commission to do under this section anything which may be done by the Commission by direction under section 28(1)(b) or 29.

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Section:	209	General provisions relating to sections 204, 205, 206 and 208	E.R. 2 of 2012	02/08/2012
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- (1) Where the Commission imposes under section 204, 205 or 206, or withdraws, substitutes or varies under section 208, a prohibition or requirement, the imposition, withdrawal, substitution or variation (as the case may be) of the prohibition or requirement takes effect at the time of the service of the notice given in respect thereof or at the time specified in the notice, whichever is the later.
- (2) Where the Commission imposes under section 204, 205 or 206, or withdraws, substitutes or varies under section 208, a prohibition or requirement, the notice given in respect thereof shall be accompanied by a statement specifying the reasons for the imposition, withdrawal, substitution or variation (as the case may be) of the prohibition or requirement.
- (3) Where any request is made by any person to the Commission pursuant to section 208(1) for the withdrawal, substitution or variation of a prohibition or requirement, the Commission shall serve on the person-
 - (a) where it withdraws, substitutes or varies the prohibition or requirement in accordance with the request, a copy of the notice given in respect thereof and of the statement accompanying it in accordance with subsection (2); or
 - (b) where it refuses to withdraw, substitute or vary the prohibition or requirement notwithstanding the request, a notice of its refusal, together with a statement specifying the reasons for the refusal.
- (4) Where-
 - (a) the Commission imposes under section 204, 205 or 206, or withdraws, substitutes or varies under section 208, a prohibition or requirement; and
 - (b) the reasons for the imposition, withdrawal, substitution or variation (as the case may be) as specified in the statement accompanying the notice given in respect thereof in accordance with subsection (2) relate specifically to matters which-
 - (i) refer to any person who is identified in the statement but who is not the person on whom the prohibition or requirement was imposed; and
 - (ii) are, in the opinion of the Commission, prejudicial to the person in any respect,

the Commission shall, as soon as reasonably practicable after the imposition, withdrawal, substitution or variation (as the case may be), take all reasonable steps to serve on the person a copy of the notice given in respect of the imposition, withdrawal, substitution or variation (as the case may be) and of the statement accompanying it in accordance with subsection (2).
- (5) Nothing in subsections (3) and (4) requires a copy of any notice given in respect of the imposition, withdrawal, substitution or variation of a prohibition or requirement, or of a statement accompanying it in accordance with subsection (2), to be served on any person if the notice or statement or a copy of the notice or statement (as the case may be) has been served on the person under any other provision of this Part.
- (6) The Commission shall publish in the Gazette, and may publish by such additional means as it may consider appropriate, a notice regarding the imposition under section 204, 205 or 206, or the withdrawal, substitution or variation under section 208, of a prohibition or requirement.
- (7) A notice published under subsection (6) may, if the Commission considers appropriate, include a statement specifying the reasons for the imposition, withdrawal, substitution or variation (as the case may be) to which the notice relates.
- (8) The Commission shall-
 - (a) before imposing under section 204, 205 or 206, or withdrawing, substituting or varying under section 208, a prohibition or requirement in respect of or with reference to a corporation that is an exchange participant or a clearing participant, use its best endeavours to inform the recognized exchange company or the recognized clearing house (as the case may be) of the proposed imposition, withdrawal, substitution or

- variation (as the case may be) by notice in writing; and
- (b) where before the imposition, withdrawal, substitution or variation of a prohibition or requirement it has not informed the recognized exchange company or the recognized clearing house (as the case may be) of the proposed imposition, withdrawal, substitution or variation (as the case may be) by notice in writing, forthwith after the imposition, withdrawal, substitution or variation (as the case may be) inform the recognized exchange company or the recognized clearing house (as the case may be) thereof by notice in writing.
- (9) Sections 204, 205, 206 and 208, and the imposition, withdrawal, substitution or variation of a prohibition or requirement under section 204, 205, 206 or 208, do not operate so as to render an agreement unenforceable by a party to the agreement if he proves that in entering into the agreement he acted in good faith and was unaware of any notice given, served or published, whether under section 204, 205, 206 or 208 or under this section, in respect of or regarding the imposition, withdrawal, substitution or variation (as the case may be).
- (10) Where by reason of the application of section 204, 205, 206 or 208 or of the giving, service or publication of any notice, whether under section 204, 205, 206 or 208 or under this section, a person rescinds an agreement, he shall restore to any other party to the agreement any money or other benefit received or obtained by him under the agreement from that party.
- (11) A notice published under subsection (6) is not subsidiary legislation.

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Section:	212	Winding-up orders and bankruptcy orders	L.N. 163 of 2013	03/03/2014
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- (1) If-
- (a) a corporation, other than an authorized financial institution, is of a class of corporations which the Court of First Instance has jurisdiction to wind up under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32); and (Amended 28 of 2012 ss. 912 & 920)
- (b) it appears to the Commission that it is desirable in the public interest that the corporation should be wound up,
- the Commission may present a petition for the corporation to be wound up under that Ordinance on the ground that it is just and equitable that the corporation should be so wound up, and that Ordinance shall apply to such petition as it applies in relation to a petition presented under that Ordinance.
- (2) If-
- (a) grounds exist for the presentation of a petition for a bankruptcy order against a licensed representative by his creditor in accordance with the Bankruptcy Ordinance (Cap 6); and
- (b) it appears to the Commission that it is desirable in the public interest to present a petition for a bankruptcy order against the licensed representative in accordance with that Ordinance,
- the Commission may present a petition for a bankruptcy order against the licensed representative in accordance with that Ordinance, and that Ordinance shall apply to such petition as it applies in relation to a petition presented by a creditor.
- (3) The Commission shall-
- (a) before presenting a petition under subsection (1) against a corporation that is an exchange participant or a clearing participant, use its best endeavours to inform the recognized exchange company or the recognized clearing house (as the case may be) of the proposed presentation of the petition by notice in writing; and
- (b) where before the presentation of the petition it has not informed the recognized exchange company or the recognized clearing house (as the case may be) of the proposed presentation of the petition by notice in writing, forthwith after the presentation of the petition inform the recognized exchange company or the recognized clearing house (as the case may be) thereof by notice in writing.

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Section:	213	Injunctions and other orders	E.R. 2 of 2012	02/08/2012
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- (1) Where-
- (a) a person has-

- (i) contravened-
 - (A) any of the relevant provisions;
 - (B) any notice or requirement given or made under or pursuant to any of the relevant provisions;
 - (C) any of the terms and conditions of any licence or registration under this Ordinance; or
 - (D) any other condition imposed under or pursuant to any provision of this Ordinance;
 - (ii) aided, abetted, or otherwise assisted, counselled or procured a person to commit any such contravention;
 - (iii) induced, whether by threats, promises or otherwise, a person to commit any such contravention;
 - (iv) directly or indirectly been in any way knowingly involved in, or a party to, any such contravention; or
 - (v) attempted, or conspired with others, to commit any such contravention; or
 - (b) it appears, whether or not during the course or as a result of the exercise of any power under Part VIII, to the Commission that any of the matters referred to in paragraph (a)(i) to (v) has occurred, is occurring or may occur,
- the Court of First Instance, on the application of the Commission, may, subject to subsection (4), make one or more of the orders specified in subsection (2).
- (2) The orders specified for the purposes of subsection (1) are-
 - (a) an order restraining or prohibiting the occurrence or the continued occurrence of any of the matters referred to in subsection (1)(a)(i) to (v);
 - (b) where a person has been, or it appears that a person has been, is or may become, involved in any of the matters referred to in subsection (1)(a)(i) to (v), whether knowingly or otherwise, an order requiring the person to take such steps as the Court of First Instance may direct, including steps to restore the parties to any transaction to the position in which they were before the transaction was entered into;
 - (c) an order restraining or prohibiting a person from acquiring, disposing of, or otherwise dealing in, any property specified in the order;
 - (d) an order appointing a person to administer the property of another person;
 - (e) an order declaring a contract relating to any securities, structured product, futures contract, leveraged foreign exchange contract, or an interest in any securities, structured product, futures contract, leveraged foreign exchange contract or collective investment scheme to be void or voidable to the extent specified in the order; (Amended 8 of 2011 s. 10)
 - (f) for the purpose of securing compliance with any other order made under this section, an order directing a person to do or refrain from doing any act specified in the order;
 - (g) any ancillary order which the Court of First Instance considers necessary in consequence of the making of any of the orders referred to in paragraphs (a) to (f).
 - (3) The Commission shall-
 - (a) before making an application pursuant to subsection (1) for an order affecting any person that is an exchange participant or a clearing participant, use its best endeavours to inform the recognized exchange company or the recognized clearing house (as the case may be) of the proposed application by notice in writing; and
 - (b) where before the making of the application it has not informed the recognized exchange company or the recognized clearing house (as the case may be) of the proposed application by notice in writing, forthwith after the making of the application inform the recognized exchange company or the recognized clearing house (as the case may be) thereof by notice in writing.
 - (4) The Court of First Instance shall, before making an order under subsection (1), satisfy itself, so far as it can reasonably do so, that it is desirable that the order be made, and that the order will not unfairly prejudice any person.
 - (5) The Court of First Instance may, before making an order under subsection (1), direct that a notice of the application made in respect thereof be given to the persons it considers appropriate, or be published in the manner it considers appropriate, or both.
 - (6) Where the Court of First Instance considers it desirable to do so, it may grant such interim order as it considers appropriate pending the determination of an application made pursuant to subsection (1).
 - (7) An order may be made under subsection (1) whether or not it appears to the Court of First Instance that-
 - (a) the person against whom the order is made intends to engage again, or to continue to engage, in any of the matters referred to in subsection (1)(a)(i) to (v);
 - (b) the person against whom the order is made has previously engaged in any of such matters;
 - (c) there is an imminent danger of damage to any person in the event of the order not being made.

- (8) Where the Court of First Instance has power to make an order against a person under subsection (1), it may, in addition to or in substitution for such order, make an order requiring the person to pay damages to any other person.
- (9) The Court of First Instance may reverse, vary or discharge an order made or granted by it under subsection (1) or (6) or suspend the operation of the order.
- (10) A notice published under subsection (5) is not subsidiary legislation.

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Section:	336	Register of interests in shares and short positions	L.N. 162 of 2013; L.N. 163 of 2013	03/03/2014
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- (1) Every listed corporation shall keep a register of interests in shares and short positions.
 - (2) Whenever a listed corporation receives information from a person given in performance of a duty imposed on him by any provision of Divisions 2 to 5, the listed corporation is under a duty to record in the register, against the person's name, the information received and the date of the entry.
 - (3) Without prejudice to subsection (2), where a listed corporation receives a notification which includes a statement that the person giving the notification, or any other person, has ceased to be a party to an agreement to which section 317 applies, the listed corporation is under a duty to record that information against the name of the person who has ceased to be a party to that agreement in every place where his name appears in the register as a party to that agreement (including any entry relating to him made against another person's name).
 - (4) A duty imposed by subsection (2) or (3) shall be performed within 3 business days after the day on which that duty arises.
 - (5) A listed corporation is not, by virtue of anything done for the purposes of this section, affected with notice of, or put upon enquiry as to, the rights of any person in relation to any shares or equity derivatives.
 - (6) The register must be so made up that the entries against the several names recorded in it appear in chronological order.
 - (7) Unless the register is in such form as to constitute in itself an index, the listed corporation shall keep an index of the names recorded in the register which shall in respect of each name contain a sufficient indication to enable the information recorded against it to be readily found.
 - (8) The listed corporation shall, within 10 business days after the day on which a name is recorded in the register, make any necessary alteration in the index.
 - (9) Subject to section 283 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32), if the corporation ceases to be a listed corporation, it shall continue to keep the register and any index until the end of the period of 6 years beginning with the day next following that on which it ceases to be a listed corporation. (Amended 28 of 2012 ss. 912 & 920)
 - (10) The register and any index-
 - (a) shall be kept-
 - (i) if the corporation's register of members is kept at its registered office, at the corporation's registered office;
 - (ii) if the corporation's register of members is not so kept, at the corporation's registered office or the place where the register of members is kept; or
 - (iii) if the corporation does not have a registered office in Hong Kong, at the corporation's principal place of business in Hong Kong; and
 - (b) shall, for the purposes of Divisions 2 to 5 and for the purposes of-
 - (i) enabling members of the public to ascertain-
 - (A) the identities and the particulars of persons who are or were the true owners of, or have or had any interest or short position in, voting shares in the listed corporation; (Amended 28 of 2012 ss. 912 & 920 and L.N. 162 of 2013)
 - (B) the nature and the particulars of the interest or short position; and
 - (C) the capacity in which a person holds or held the interest or short position; and
 - (ii) providing the investing public with information to enable them to make informed investment decisions,
- be made available for inspection in accordance with section 340. (Amended 28 of 2012 ss. 912 & 920)
- (11) (Repealed 28 of 2012 ss. 912 & 920)

- (12) The corporation shall send notice in the form specified by the Commission for the purposes of this section to the Registrar of Companies of-
- (a) the place where the register is kept; and
 - (b) any change in that place,
- unless the register has at all times been kept at the corporation's registered office.
- (13) The duty imposed by subsection (12) shall be performed within 10 business days after the day on which the register is so kept or the change takes place (as the case may be).
- (14) If default is made in complying with any provision of this section, the listed corporation concerned and every officer of it who is in default commit an offence and each is liable on conviction to a fine at level 1 and, in the case of a continuing offence, to a further fine of \$200 for every day during which the offence continues.
- (15) For the purposes of this section, a reference to books and papers in section 283 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32) shall be construed as including a reference to the register and index required to be kept by a corporation under this section. (Amended 28 of 2012 ss. 912 & 920)

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Schedule:	1	Interpretation and General Provisions	L.N. 163 of 2013	03/03/2014
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[sections 2, 19, 66, 102, 164,
171, 174, 175, 202 & 406
& Schs. 9 & 10]
(Amended 8 of 2011 s. 14)

Part 1

Interpretation

1. Interpretation of this Ordinance

In this Ordinance, unless otherwise defined or excluded or the context otherwise requires-

accredited (隸屬) means accredited to a licensed corporation with the Commission's approval under section 122 of this Ordinance;

Advisory Committee (諮詢委員會) means the Advisory Committee referred to in section 7 of this Ordinance;

associate (有聯繫者), in relation to a person, means-

- (a) the spouse, or any minor child (natural or adopted) or minor step-child, of the person;
- (b) any corporation of which the person is a director;
- (c) any employee or partner of the person;
- (d) the trustee of a trust of which the person, his spouse, minor child (natural or adopted) or minor step-child, is a beneficiary or a discretionary object;
- (e) another person in accordance with whose directions or instructions the person is accustomed or obliged to act;
- (f) another person accustomed or obliged to act in accordance with the directions or instructions of the person;
- (g) a corporation in accordance with the directions or instructions of which, or the directions or instructions of the directors of which, the person is accustomed or obliged to act;
- (h) a corporation which is, or the directors of which are, accustomed or obliged to act in accordance with the directions or instructions of the person;
- (i) a corporation at general meetings of which the person, either alone or together with another, is directly or indirectly entitled to exercise or control the exercise of 33% or more of the voting power;
- (j) a corporation of which the person controls the composition of the board of directors;
- (k) where the person is a corporation-
 - (i) each of its directors and its related corporations and each director or employee of any of its related corporations; and

- (ii) a pension fund, provident fund or employee share scheme of the corporation or of a related corporation of the corporation;
- (l) without limiting the circumstances in which paragraphs (a) to (k) apply, in circumstances concerning the securities of or other interest in a corporation, or rights arising out of the holding of such securities or such interest, any other person with whom the person has an agreement or arrangement-
 - (i) with respect to the acquisition, holding or disposal of such securities or such interest; or
 - (ii) under which they undertake to act together in exercising their voting power at general meetings of the corporation;

associated entity (有聯繫實體), in relation to an intermediary, means a company, or a registered non-Hong Kong company as defined by section 2(1) of the Companies Ordinance (Cap 622), which- (Amended 30 of 2004 s. 3; 28 of 2012 ss. 912 & 920)

- (a) is in a controlling entity relationship with the intermediary; and
- (b) receives or holds in Hong Kong client assets of the intermediary;

auditor (核數師) means a certified public accountant (practising) as defined in the Professional Accountants Ordinance (Cap 50), or such other person as is prescribed by rules made under section 397 of this Ordinance for the purposes of this definition; (Amended 23 of 2004 s. 56)

authorized automated trading services (認可自動化交易服務) means automated trading services which a person is authorized to provide under section 95(2) of this Ordinance;

authorized financial institution (認可財務機構) means an authorized institution as defined in section 2(1) of the Banking Ordinance (Cap 155);

automated trading services (自動化交易服務) has the meaning assigned to it by Part 2 of Schedule 5 to this Ordinance;

bank (銀行) means any institution carrying on business similar to-

- (a) the banking business within the meaning of the Banking Ordinance (Cap 155) as carried on by an authorized financial institution; or
- (b) the business of taking deposits within the meaning of that Ordinance as carried on by an authorized financial institution,

whether it is an authorized financial institution or not, and **banker** (銀行) shall be construed accordingly;

bank incorporated outside Hong Kong (在香港以外地方成立為法團的銀行) means a bank incorporated outside Hong Kong that is not an authorized financial institution;

banker's books (銀行簿冊) includes-

- (a) books of a banker;
- (b) cheques, orders for the payment of money, bills of exchange and promissory notes in the possession of a banker;
- (c) securities in the possession of a banker, whether as a pledge or otherwise; and
- (d) any material in which information is recorded (however compiled or stored, and whether recorded in a legible form or recorded otherwise than in a legible form but is capable of being reproduced in a legible form) and which is used in the ordinary course of business of a bank;

books (簿冊) includes-

- (a) accounts and any accounting information; and
- (b) in the case of a banker, any banker's books, however compiled or stored, and whether recorded in a legible form or recorded otherwise than in a legible form but is capable of being reproduced in a legible form;

broadcast (廣播), in relation to any material (however described), includes having the information contained in the material broadcast;

broadcaster (廣播業者) means a person who lawfully-

- (a) establishes and maintains a broadcasting service within the meaning of Part 3A of the Telecommunications Ordinance (Cap 106); or
- (b) provides a broadcasting service as defined in section 2(1) of the Broadcasting Ordinance (Cap 562);

business day (營業日) means a day other than-

- (a) a public holiday; (Amended 9 of 2012 s. 53)
- (ab) a Saturday; and (Added 9 of 2012 s. 53)

- (b) a gale warning day or a black rainstorm warning day as defined in section 71(2) of the Interpretation and General Clauses Ordinance (Cap 1);

certificate of deposit (存款證) means a document relating to money, in any currency, which has been deposited with the issuer or some other person, being a document which recognizes an obligation to pay a stated amount to bearer or to order, with or without interest, and being a document by the delivery of which, with or without endorsement, the right to receive that stated amount, with or without interest, is transferable (and, in the case of any such document which is a prescribed instrument by virtue of paragraph (a) of the definition of **prescribed instrument** in section 137B(1) of the Banking Ordinance (Cap 155), such document includes any right or interest referred to in paragraph (b) of that definition in respect of such document);

certified public accountant (會計師) means a certified public accountant as defined in section 2 of the Professional Accountants Ordinance (Cap 50); (Replaced 23 of 2004 s. 56)

charge (押記) includes any form of security, including a mortgage;

clearing house (結算所) means a person-

- (a) whose activities or objects include the provision of services for the clearing and settlement of transactions in securities effected on a recognized stock market or subject to the rules of a recognized exchange company;
- (b) whose activities or objects include the provision of services for-
 - (i) the clearing and settlement of transactions in futures contracts; or
 - (ii) the day-to-day adjustment of the financial position of futures contracts, effected on a recognized futures market or subject to the rules of a recognized exchange company; or
- (c) who guarantees the settlement of any such transactions as are referred to in paragraph (a) or (b), but does not include a corporation operated by or on behalf of the Government;

clearing participant (結算所參與者) means a person-

- (a) who, in accordance with the rules of a recognized clearing house, may participate in one or more of the services provided by the clearing house in its capacity as a clearing house; and
- (b) whose name is entered in a list, roll or register kept by that recognized clearing house as a person who may participate in one or more of the services provided by that clearing house;

client (客戶), in relation to an intermediary, means a person for whom the intermediary provides a service the provision of which constitutes a regulated activity, and-

- (a) includes another intermediary that-
 - (i) deposits securities;
 - (ii) deposits money; or
 - (iii) deposits any property as collateral, with the first-mentioned intermediary;
- (b) in connection with a leveraged foreign exchange contract, does not include a recognized counterparty;

client assets (客戶資產) means-

- (a) client securities and collateral; and
- (b) client money;

client collateral (客戶抵押品) means-

- (a) securities collateral; and
- (b) other collateral;

client money (客戶款項)-

- (a) in relation to a licensed corporation, means any money-
 - (i) received or held by or on behalf of the licensed corporation; or
 - (ii) received or held by or on behalf of any corporation which is in a controlling entity relationship with the licensed corporation, which is so received or held on behalf of a client of the licensed corporation or in which a client of the licensed corporation has a legal or equitable interest, and includes any accretions thereto whether as capital or income; or
- (b) in relation to a registered institution, means any money-
 - (i) received or held by or on behalf of the registered institution, in the course of the conduct of any regulated activity for which the registered institution is registered; or

- (ii) received or held by or on behalf of any corporation which is in a controlling entity relationship with the registered institution, in relation to such conduct of the regulated activity, which is so received or held on behalf of a client of the registered institution or in which a client of the registered institution has a legal or equitable interest, and includes any accretions thereto whether as capital or income;

client securities (客戶證券)-

- (a) in relation to a licensed corporation, means any securities (other than securities collateral)-
 - (i) received or held by or on behalf of the licensed corporation; or
 - (ii) received or held by or on behalf of any corporation which is in a controlling entity relationship with the licensed corporation, which are so received or held on behalf of a client of the licensed corporation or in which a client of the licensed corporation has a legal or equitable interest; or
- (b) in relation to a registered institution, means any securities (other than securities collateral)-
 - (i) received or held by or on behalf of the registered institution, in the course of the conduct of any regulated activity for which the registered institution is registered; or
 - (ii) received or held by or on behalf of any corporation which is in a controlling entity relationship with the registered institution, in relation to such conduct of the regulated activity, which are so received or held on behalf of a client of the registered institution or in which a client of the registered institution has a legal or equitable interest;

client securities and collateral (客戶證券及抵押品) means-

- (a) client securities; and
- (b) client collateral;

collective investment scheme (集體投資計劃) means-

- (a) arrangements in respect of any property-
 - (i) under which the participating persons do not have day-to-day control over the management of the property, whether or not they have the right to be consulted or to give directions in respect of such management;
 - (ii) under which-
 - (A) the property is managed as a whole by or on behalf of the person operating the arrangements;
 - (B) the contributions of the participating persons and the profits or income from which payments are made to them are pooled; or
 - (C) the property is managed as a whole by or on behalf of the person operating the arrangements, and the contributions of the participating persons and the profits or income from which payments are made to them are pooled; and
 - (iii) the purpose or effect, or pretended purpose or effect, of which is to enable the participating persons, whether by acquiring any right, interest, title or benefit in the property or any part of the property or otherwise, to participate in or receive-
 - (A) profits, income or other returns represented to arise or to be likely to arise from the acquisition, holding, management or disposal of the property or any part of the property, or sums represented to be paid or to be likely to be paid out of any such profits, income or other returns; or
 - (B) a payment or other returns arising from the acquisition, holding or disposal of, the exercise of any right in, the redemption of, or the expiry of, any right, interest, title or benefit in the property or any part of the property; or
- (b) arrangements which are arrangements, or are of a class or description of arrangements, prescribed by notice under section 393 of this Ordinance as being regarded as collective investment schemes in accordance with the terms of the notice,

but does not include-

- (i) arrangements operated by a person otherwise than by way of business;
- (ii) arrangements under which each of the participating persons is a corporation in the same group of companies as the person operating the arrangements;
- (iii) arrangements under which each of the participating persons is a bona fide employee or former employee of a corporation in the same group of companies as the person operating the arrangements,

- or a spouse, widow, widower, minor child (natural or adopted) or minor step-child of such employee or former employee;
- (iv) franchise arrangements under which the franchisor or franchisee earns profits or income by exploiting a right conferred by the arrangements to use a trade name or design or other intellectual property or the goodwill attached to it;
- (v) arrangements under which money is taken by a solicitor from his client, or as a stakeholder, acting in his professional capacity in the ordinary course of his practice;
- (vi) arrangements made for the purposes of any fund or scheme maintained by the Commission, or by a recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company, under any provision of this Ordinance for the purpose of providing compensation in the event of default by an exchange participant or a clearing participant;
- (vii) arrangements made by any credit union in accordance with the objects thereof;
- (viii) arrangements made for the purposes of any chit-fund permitted to operate under the Chit-Fund Businesses (Prohibition) Ordinance (Cap 262);
- (ix) arrangements made for the purposes of the Exchange Fund established by the Exchange Fund Ordinance (Cap 66);
- (x) arrangements which are arrangements, or are of a class or description of arrangements, prescribed by notice under section 393 of this Ordinance as not being regarded as collective investment schemes in accordance with the terms of the notice;

Commission (證監會) means the Securities and Futures Commission referred to in section 3(1) of this Ordinance;

Commissioner of the Independent Commission Against Corruption (廉政專員) means the person who holds the office of the Commissioner of the Independent Commission Against Corruption pursuant to section 5 of the Independent Commission Against Corruption Ordinance (Cap 204); (Amended 14 of 2003 s. 24)

company (公司) means a company as defined in section 2(1) of the Companies Ordinance (Cap 622); (Amended 28 of 2012 ss. 912 & 920)

compensation fund (賠償基金) means the Investor Compensation Fund established under section 236 of this Ordinance;

conduct (行為) includes any act or omission, and any series of acts or omissions;

constitution (章程), in relation to a corporation, including a recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company, means-

- (a) where the corporation is a company, the articles of association of the corporation; or (Amended 28 of 2012 ss. 912 & 920)
- (b) in any other case, any other instrument providing for the constitution of the corporation;

controlling entity (控權實體), in relation to a corporation, means a person who, either alone or with any of his associates-

- (a) is entitled to exercise or control the exercise of not less than-
 - (i) subject to subparagraph (ii), 20%; or
 - (ii) where any other percentage is prescribed by rules made under section 397 of this Ordinance for the purposes of this definition, such other percentage, of the voting power at general meetings of the corporation;
- (b) has the right to nominate any of the directors of the corporation; or
- (c) has an interest in shares carrying the right to-
 - (i) veto any resolution; or
 - (ii) amend, modify, limit or add conditions to any resolution, at general meetings of the corporation;

controlling entity relationship (控權實體關係), in relation to a corporation, means its relationship with an intermediary by virtue of-

- (a) the intermediary being a controlling entity of the corporation;
- (b) the corporation being a controlling entity of the intermediary; or
- (c) another person, who is a controlling entity of the corporation, being also a controlling entity of the intermediary;

corporation (法團) means a company or other body corporate incorporated either in Hong Kong or elsewhere,

but does not include a company or other body corporate which is prescribed by rules made under section 397 of this Ordinance for the purposes of this definition as being exempted from the provisions of this Ordinance, or to the extent that it is prescribed by rules so made as being exempted from any provision of this Ordinance;

court (法庭、法院) includes a magistrate and a tribunal;

credit union (儲蓄互助社) means a credit union registered under the Credit Unions Ordinance (Cap 119);

currency and interest rate-linked instrument (貨幣及利率掛鈎票據) means-

- (a) an instrument that is a structured product only because some or all of the return or amount due (or both the return and the amount due) or the method of settlement is determined by reference to a combination of-
 - (i) changes in the value or level (or a range within the value or level) of any one or more currency exchange rates or currency exchange rate indices or the occurrence or non-occurrence of any specified event or events relating to any one or more currency exchange rates or currency exchange rate indices; and
 - (ii) changes in the value or level (or a range within the value or level) of any one or more interest rates or interest rate indices or the occurrence or non-occurrence of any specified event or events relating to any one or more interest rates or interest rate indices; or
- (b) any interests, rights or property prescribed, or of a class or description prescribed, by notice under section 392 of this Ordinance as being regarded as currency and interest rate-linked instruments in accordance with the notice,

but does not include any interests, rights or property prescribed, or of a class or description prescribed, by notice under section 392 of this Ordinance as not being regarded as currency and interest rate-linked instruments in accordance with the notice; (Added 8 of 2011 s. 14)

currency-linked instrument (貨幣掛鈎票據) means-

- (a) an instrument that is a structured product only because some or all of the return or amount due (or both the return and the amount due) or the method of settlement is determined by reference to one or more of-
 - (i) changes in the value or level (or a range within the value or level) of any one or more currency exchange rates or currency exchange rate indices; or
 - (ii) the occurrence or non-occurrence of any specified event or events relating to any one or more currency exchange rates or currency exchange rate indices; or
- (b) any interests, rights or property prescribed, or of a class or description prescribed, by notice under section 392 of this Ordinance as being regarded as currency-linked instruments in accordance with the notice,

but does not include any interests, rights or property prescribed, or of a class or description prescribed, by notice under section 392 of this Ordinance as not being regarded as currency-linked instruments in accordance with the notice; (Added 8 of 2011 s. 14)

data material (數據材料) means a document or other material used with or produced by any information system;

dealing (交易)-

- (a) in relation to securities, means, whether as principal or agent, making or offering to make an agreement with another person, or inducing or attempting to induce another person, to enter into or to offer to enter into an agreement-
 - (i) for or with a view to acquiring, disposing of, subscribing for or underwriting securities; or
 - (ii) the purpose or pretended purpose of which is to secure a profit to any of the parties from the yield of securities or by reference to fluctuations in the value of securities; or
- (b) in relation to futures contracts, means, whether as principal or agent-
 - (i) making or offering to make an agreement with another person to enter into, or to acquire or dispose of, a futures contract;
 - (ii) inducing or attempting to induce another person to enter into, or to offer to enter into, a futures contract; or
 - (iii) inducing or attempting to induce another person to acquire or dispose of a futures contract;

debenture (債權證) includes debenture stocks, bonds, and other debt securities of a corporation, whether

constituting a charge on the assets of the corporation or not; (Amended 8 of 2011 s. 14)

defalcation (虧空) means misapplication, including misappropriation, of any property;

director (董事) includes a shadow director and any person occupying the position of director by whatever name called;

disclosure proceedings (關於披露的研訊程序) has the meaning given by section 307I(1) of this Ordinance; (Added 9 of 2012 s. 11)

document (文件) includes any register and books, any tape recording and any form of input or output into or from an information system, and any other document or similar material (whether produced mechanically, electronically, magnetically, optically, manually or by any other means);

exchange participant (交易所參與者) means a person-

- (a) who, in accordance with the rules of a recognized exchange company, may trade through that exchange company or on a recognized stock market or a recognized futures market operated by that exchange company; and
- (b) whose name is entered in a list, roll or register kept by that recognized exchange company as a person who may trade through that exchange company or on a recognized stock market or a recognized futures market operated by that exchange company;

executive director (執行董事), in relation to the Commission, means the chief executive officer of the Commission or any other person who is appointed as an executive director of the Commission under section 1 of Part 1 of Schedule 2 to this Ordinance (whether or not acting in any other capacity under that Part); (Amended 15 of 2006 s. 5)

executive officer (主管人員)-

- (a) in relation to a licensed corporation, means a responsible officer of the licensed corporation;
- (b) in relation to a registered institution, means a person who is an executive officer of the registered institution under the Banking Ordinance (Cap 155); or
- (c) in relation to an associated entity of an intermediary, means any director of the associated entity who is responsible for directly supervising the receiving or holding by the associated entity of client assets of the intermediary;

fee (費用) includes a charge;

financial accommodation (財務通融) means a loan or other arrangement under which a person is or is to be provided with credit, whether directly or through a third party, and in particular includes an overdraft, a discounted negotiable instrument, a guarantee, a forbearance from enforcing any debt that in substance is a loan, and also includes an agreement to secure the payment or repayment of any such accommodation;

financial product (金融產品) means-

- (a) any securities;
- (b) any futures contract;
- (c) any collective investment scheme;
- (d) any leveraged foreign exchange contract;
- (e) any structured product; (Added 8 of 2011 s. 14)

financial resources rules (財政資源規則) means rules made under section 145 of this Ordinance;

financial year (財政年度)-

- (a) in relation to the Commission, means the financial year referred to in section 13(1) of this Ordinance; or
- (b) in relation to an intermediary, or an associated entity of an intermediary, means-
 - (i) the financial year in respect of which notification is given to the Commission under section 155(1) of this Ordinance or, where an approval is granted under section 155(3)(a) of this Ordinance, the financial year in respect of which the approval is granted;
 - (ii) the financial year in respect of which notification is given to the Monetary Authority under section 59B(1) of the Banking Ordinance (Cap 155) or, where an approval is granted under section 59B(3)(a) of that Ordinance, the financial year in respect of which the approval is granted; or
 - (iii) in any other case, a period of 12 consecutive months ending on 31 March in a calendar year;

function (職能) includes power and duty;

futures contract (期貨合約) means-

- (a) a contract or an option on a contract made under the rules or conventions of a futures market;
 - (b) interests, rights or property which is interests, rights or property, or is of a class or description of interests, rights or property, prescribed by notice under section 392 of this Ordinance as being regarded as futures contracts in accordance with the terms of the notice,
- but does not include interests, rights or property which is interests, rights or property, or is of a class or description of interests, rights or property, prescribed by notice under section 392 of this Ordinance as not being regarded as futures contracts in accordance with the terms of the notice;

Futures Exchange Company (期交所) means the company incorporated, and registered by the name Hong Kong Futures Exchange Limited, under the relevant Ordinance; (Amended 28 of 2012 ss. 912 & 920)

futures market (期貨市場) means a place at which facilities are provided for persons to negotiate or conclude sales and purchases of, or for bringing together on a regular basis sellers and purchasers of-

- (a) contracts the effect of which is-
 - (i) that one party agrees to deliver to the other party at an agreed future time an agreed property, or an agreed quantity of a property, at an agreed price; or
 - (ii) that the parties will make an adjustment between them at an agreed future time according to whether at that time an agreed property is worth more or less or an index or other factor stands at a higher or lower level than a value or level agreed at the time of making of the contract; or
- (b) options on contracts of the kind described in paragraph (a),

where-

- (i) the contracts or options of the kind described in paragraph (a) or (b) are novated or guaranteed by a central counterparty under the rules or conventions of the market on which they are traded; or
- (ii) the contractual obligations under the contracts or options of the kind described in paragraph (a) or (b) are normally discharged before the contractual expiry date under the rules or conventions of the market on which they are traded,

but does not include the office of a recognized clearing house;

group of companies (公司集團) means any 2 or more corporations one of which is the holding company of the other or others (as the case may be);

hold (持有), in relation to any property, includes-

- (a) possession of the property;
- (b) being registered or otherwise recorded, as having title to or being entitled to receive the property, in any register or other record (however compiled or stored) which is established or created for the purpose of identifying persons having title to or being entitled to receive any property; and
- (c) in the case of a person carrying on business, the person being in a position to transfer the property to himself or otherwise receive the benefit of the property-
 - (i) where another person has a legal or equitable interest in the property;
 - (ii) where there is a connection between the property and the business which is carried on by the person; and
 - (iii) regardless of whether it would be lawful or unlawful for the person to transfer the property to himself or otherwise receive the benefit of the property,

but does not include, in the case of a cheque or other order made payable to any person, the possession of the cheque or other order during the course of dispatching or delivering it to that person or any other person on behalf of that person;

holding company (控權公司) means, in relation to a corporation, any other corporation of which it is a subsidiary; (Replaced 28 of 2012 ss. 912 & 920)

incorporated (成立、成立為法團) includes formed or established, by whatever means;

information (資訊、資料、消息) includes data, text, images, sound codes, computer programmes, software and databases, and any combination thereof;

information system (資訊系統) means an information system as defined in section 2(1) of the Electronic Transactions Ordinance (Cap 553);

Insurance Authority (保險業監督) means the Insurance Authority appointed under section 4 of the Insurance Companies Ordinance (Cap 41);

insurer (保險人) means an insurer as defined in section 2(1) of the Insurance Companies Ordinance (Cap 41);

interest rate-linked instrument (利率掛鈎票據) means-

- (a) an instrument that is a structured product only because some or all of the return or amount due (or both the return and the amount due) or the method of settlement is determined by reference to one or more of-
 - (i) changes in the value or level (or a range within the value or level) of any one or more interest rates or interest rate indices; or
 - (ii) the occurrence or non-occurrence of any specified event or events relating to any one or more interest rates or interest rate indices; or
- (b) any interests, rights or property prescribed, or of a class or description prescribed, by notice under section 392 of this Ordinance as being regarded as interest rate-linked instruments in accordance with the notice,

but does not include any interests, rights or property prescribed, or of a class or description prescribed, by notice under section 392 of this Ordinance as not being regarded as interest rate-linked instruments in accordance with the notice; (Added 8 of 2011 s. 14)

intermediary (中介人) means a licensed corporation or a registered institution;

judicial or other proceedings (司法或其他法律程序) means any legal proceedings, whether in the nature of judicial proceedings or otherwise;

legal officer (律政人員) means a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap 87);

leveraged foreign exchange contract (槓桿式外匯交易合約) has the meaning assigned to it by Part 2 of Schedule 5 to this Ordinance;

leveraged foreign exchange trading (槓桿式外匯交易) has the meaning assigned to it by Part 2 of Schedule 5 to this Ordinance;

licence (牌、牌照) means a licence granted under section 116, 117, 120 or 121 of this Ordinance, and **licensed** (獲發牌、持牌) shall be construed accordingly;

licensed corporation (持牌法團) means a corporation which is granted a licence under section 116 or 117 of this Ordinance;

licensed person (持牌人) means a licensed corporation or a licensed representative;

licensed representative (持牌代表) means an individual who is granted a licence under section 120 or 121 of this Ordinance;

liquidator (清盤人) includes a provisional liquidator;

listed (上市) means listed on a recognized stock market, and for the purposes of this definition-

- (a) a corporation shall be regarded as listed if any of its securities are listed;
- (b) securities shall be regarded as listed when a recognized exchange company has, on the application of the corporation which issued them, or on the application of a holder of them, agreed to allow, subject to the requirements of this Ordinance, dealings in those securities to take place on a recognized stock market, and shall continue to be so regarded during a period of suspension of dealings in those securities on the recognized stock market;

listing (上市), in relation to securities, means the process by which the securities are listed;

live broadcast (直播), in relation to any material (however described), means having the material broadcast without its being recorded in advance;

Mandatory Provident Fund Schemes Authority (積金局) means the Mandatory Provident Fund Schemes Authority established under section 6 of the Mandatory Provident Fund Schemes Ordinance (Cap 485);

market contract (市場合約) means a contract subject to the rules of a recognized clearing house entered into by the clearing house with a clearing participant pursuant to a novation which is both in accordance with those rules and for the purposes of the clearing and settlement of transactions in securities or futures contracts effected on a recognized stock market or a recognized futures market or subject to the rules of a recognized exchange company;

market misconduct (市場失當行為) has the meaning assigned to it by section 245(1) of this Ordinance;

Market Misconduct Tribunal (市場失當行為審裁處) means the Market Misconduct Tribunal established by

section 251 of this Ordinance;

member (成員), in relation to the Commission, means- (Amended 15 of 2006 s. 5)

- (a) the chairman of the Commission; or
- (b) the chief executive officer or any other executive director or non-executive director of the Commission (whether or not acting in any other capacity under Part 1 of Schedule 2 to this Ordinance); (Amended 15 of 2006 s. 5)

minor (未成年), in relation to a person, means not having attained the age of 18 years;

misfeasance (不當行為) means the performance of an otherwise lawful act in a wrongful manner;

Monetary Authority (金融管理專員) means the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Cap 66);

money laundering activities (洗錢活動) means activities intended to have the effect of making any property-

- (a) which is the proceeds obtained from the commission of an offence under the laws of Hong Kong, or of any conduct which if occurred in Hong Kong would constitute an offence under the laws of Hong Kong; or
- (b) which in whole or in part, directly or indirectly, represents such proceeds, not to appear to be or so represent such proceeds;

multilateral agency (多邊機構) means a body specified in Part 4;

non-executive director (非執行董事), in relation to the Commission, means a person who is appointed as a non-executive director of the Commission under section 1 of Part 1 of Schedule 2 to this Ordinance (whether or not acting in any other capacity under that Part); (Amended 15 of 2006 s. 5)

non-Hong Kong company (非香港公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap 622); (Added 30 of 2004 s. 3. Amended 28 of 2012 ss. 912 & 920)

number (數目), in relation to shares which in the context can be construed to include stock, includes amount;

officer (高級人員)-

- (a) in relation to a corporation, means a director, manager or secretary of, or any other person involved in the management of, the corporation; or
- (b) in relation to an unincorporated body, means any member of the governing body of the unincorporated body;

Official Receiver (破產管理署署長) means the Official Receiver appointed under section 75 of the Bankruptcy Ordinance (Cap 6);

Ombudsman (申訴專員) means The Ombudsman referred to in section 3(1) of The Ombudsman Ordinance (Cap 397);

other collateral (其他抵押品)-

- (a) in relation to a licensed corporation, means any property (other than securities or money)-
 - (i) deposited with, or otherwise provided by or on behalf of a client of the licensed corporation to, the licensed corporation; or
 - (ii) deposited with, or otherwise provided by or on behalf of a client of the licensed corporation to, any other intermediary or person, which is so deposited or provided-
 - (A) as security for the provision by the licensed corporation of financial accommodation; or
 - (B) to facilitate the provision by the licensed corporation of financial accommodation under an arrangement that confers on the licensed corporation a collateral interest in the property; or
- (b) in relation to a registered institution, means any property (other than securities or money)-
 - (i) deposited with, or otherwise provided by or on behalf of a client of the registered institution to, the registered institution, in the course of the conduct of any regulated activity for which the registered institution is registered; or
 - (ii) deposited with, or otherwise provided by or on behalf of a client of the registered institution to, any other intermediary or person, in relation to such conduct of the regulated activity, which is so deposited or provided-
 - (A) as security for the provision by the registered institution of financial accommodation; or
 - (B) to facilitate the provision by the registered institution of financial accommodation under an arrangement that confers on the registered institution a collateral interest in the property;

performance (執行), in relation to a function, includes discharge and exercise;

possession (管有), in relation to any matter, includes custody, control and power of or over the matter;

Privacy Commissioner for Personal Data (私隱專員) means the Privacy Commissioner for Personal Data established under section 5(1) of the Personal Data (Privacy) Ordinance (Cap 486);

professional investor (專業投資者) means-

- (a) any recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company, or any person authorized to provide automated trading services under section 95(2) of this Ordinance;
- (b) any intermediary, or any other person carrying on the business of the provision of investment services and regulated under the law of any place outside Hong Kong;
- (c) any authorized financial institution, or any bank which is not an authorized financial institution but is regulated under the law of any place outside Hong Kong;
- (d) any insurer authorized under the Insurance Companies Ordinance (Cap 41), or any other person carrying on insurance business and regulated under the law of any place outside Hong Kong;
- (e) any scheme which-
 - (i) is a collective investment scheme authorized under section 104 of this Ordinance; or
 - (ii) is similarly constituted under the law of any place outside Hong Kong and, if it is regulated under the law of such place, is permitted to be operated under the law of such place,or any person by whom any such scheme is operated;
- (f) any registered scheme as defined in section 2(1) of the Mandatory Provident Fund Schemes Ordinance (Cap 485), or its constituent fund as defined in section 2 of the Mandatory Provident Fund Schemes (General) Regulation (Cap 485 sub. leg. A), or any person who, in relation to any such registered scheme, is an approved trustee or service provider as defined in section 2(1) of that Ordinance or who is an investment manager of any such registered scheme or constituent fund;
- (g) any scheme which-
 - (i) is a registered scheme as defined in section 2(1) of the Occupational Retirement Schemes Ordinance (Cap 426); or
 - (ii) is an offshore scheme as defined in section 2(1) of that Ordinance and, if it is regulated under the law of the place in which it is domiciled, is permitted to be operated under the law of such place,or any person who, in relation to any such scheme, is an administrator as defined in section 2(1) of that Ordinance;
- (h) any government (other than a municipal government authority), any institution which performs the functions of a central bank, or any multilateral agency;
- (i) except for the purposes of Schedule 5 to this Ordinance, any corporation which is-
 - (i) a wholly owned subsidiary of-
 - (A) an intermediary, or any other person carrying on the business of the provision of investment services and regulated under the law of any place outside Hong Kong; or
 - (B) an authorized financial institution, or any bank which is not an authorized financial institution but is regulated under the law of any place outside Hong Kong;
 - (ii) a holding company which holds all the issued share capital of-
 - (A) an intermediary, or any other person carrying on the business of the provision of investment services and regulated under the law of any place outside Hong Kong; or
 - (B) an authorized financial institution, or any bank which is not an authorized financial institution but is regulated under the law of any place outside Hong Kong; or
 - (iii) any other wholly owned subsidiary of a holding company referred to in subparagraph (ii); or
- (j) any person of a class which is prescribed by rules made under section 397 of this Ordinance for the purposes of this paragraph as within the meaning of this definition for the purposes of the provisions of this Ordinance, or to the extent that it is prescribed by rules so made as within the meaning of this definition for the purposes of any provision of this Ordinance;

property (財產) includes-

- (a) money, goods, choses in action and land, whether in Hong Kong or elsewhere; and
- (b) obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as defined in paragraph (a);

prospectus (招股章程) means prospectus as defined in section 2(1) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32); (Replaced 30 of 2004 s. 3. Amended 28 of 2012 ss. 912 & 920)

public (公眾、大眾) means the public of Hong Kong, and includes any class of that public;

purchase (買、購買), in relation to securities, includes subscribing for or acquiring the securities, in whatever form the consideration may be;

qualifying credit rating (合資格信貸評級) means-

- (a) a credit rating specified in Part 5; or
- (b) any credit rating which, in the opinion of the Commission, is equivalent to a credit rating specified in Part 5;

recognized clearing house (認可結算所) means a company recognized as a clearing house under section 37(1) of this Ordinance;

recognized counterparty (認可對手方) means-

- (a) an authorized financial institution;
- (b) in relation to a particular transaction conducted by a corporation licensed for Type 3 regulated activity, another corporation which is also so licensed; or
- (c) an institution prescribed by rules made under section 397 of this Ordinance for the purposes of this definition as a recognized counterparty;

recognized exchange company (認可交易所) means a company recognized as an exchange company under section 19(2) of this Ordinance;

recognized exchange controller (認可控制人) means a company recognized as an exchange controller under section 59(2) of this Ordinance;

recognized futures market (認可期貨市場) means a futures market operated by a recognized exchange company;

recognized investor compensation company (認可投資者賠償公司) means a company recognized as an investor compensation company under section 79(1) of this Ordinance;

recognized stock market (認可證券市場) means a stock market operated by a recognized exchange company;

record (紀錄) means any record of information (however compiled or stored) and includes-

- (a) any books, deeds, contract or agreement, voucher, receipt or data material, or information which is recorded otherwise than in a legible form but is capable of being reproduced in a legible form; and
- (b) any document, disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of other equipment) of being reproduced, and any film (including a microfilm), tape or other device in which visual images are embodied so as to be capable (with or without the aid of other equipment) of being reproduced;

registered (註冊) means registered under section 119 of this Ordinance, and "registration" (註冊) shall be construed accordingly;

registered institution (註冊機構) means an authorized financial institution which is registered under section 119 of this Ordinance;

Registrar of Companies (公司註冊處處長) means the Registrar of Companies appointed under section 21(1) of the Companies Ordinance (Cap 622); (Amended 28 of 2012 ss. 912 & 920)

regulated activity (受規管活動) means any of the regulated activities specified in Part 1 of Schedule 5 to this Ordinance, and a reference to a type of regulated activity by number shall be construed as a reference to the type of regulated activity of that number as specified in that Part;

regulated investment agreement (受規管投資協議) means an agreement the purpose or effect, or pretended purpose or effect, of which is to provide, whether conditionally or unconditionally, to any party to the agreement a profit, income or other returns calculated by reference to changes in the value of any property, but does not include an interest in a collective investment scheme;

relevant Ordinance (《有關條例》) means the Companies Ordinance (Cap 32) as in force from time to time before the commencement date* of section 2 of Schedule 9 to the Companies Ordinance (Cap 622); (Added 28 of 2012 ss. 912 & 920)

relevant provisions (有關條文) means the provisions of-

- (a) this Ordinance;
- (b) Parts II and XII of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32), so far as those Parts relate, directly or indirectly, to the performance of functions relating to prospectuses, whether or not such functions have been made the subject of a transfer order under section 25 or 68 of this Ordinance; (Added 15 of 2011 s. 91. Amended 28 of 2012 ss. 912 & 920)
- (ba) Part 5 of the Companies Ordinance (Cap 622), so far as that Part relates, directly or indirectly, to the performance of functions relating to-
 - (i) the buy-back by a corporation of its own shares; or
 - (ii) a corporation giving financial assistance for the acquisition of its own shares, whether or not such functions have been made the subject of a transfer order under section 25 or 68 of this Ordinance; (Added 28 of 2012 ss. 912 & 920)
- (c) Parts II and XII of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32), for the purposes only of section 213 of this Ordinance, and so far as those Parts relate, directly or indirectly, to an advertisement mentioned in section 38B(1) of that Ordinance; (Added 30 of 2004 s. 3. Amended 28 of 2012 ss. 912 & 920)
- (d) Part 2 (except section 6) of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap 615); (Added 15 of 2011 s. 91)

relevant share capital (有關股本) means the issued share capital of a corporation which is of a class carrying rights to vote in all circumstances at general meetings of the corporation;

remuneration (報酬) includes money, any consideration, financial accommodation or benefit, whether paid, provided or supplied directly or indirectly;

repealed Commodities Trading Ordinance (已廢除的《商品交易條例》) means the Commodities Trading Ordinance (Cap 250) repealed under section 406 of this Ordinance;

repealed Exchanges and Clearing Houses (Merger) Ordinance (已廢除的《交易所及結算所(合併)條例》) means the Exchanges and Clearing Houses (Merger) Ordinance (Cap 555) repealed under section 406 of this Ordinance;

repealed Leveraged Foreign Exchange Trading Ordinance (已廢除的《槓桿式外匯買賣條例》) means the Leveraged Foreign Exchange Trading Ordinance (Cap 451) repealed under section 406 of this Ordinance;

repealed Protection of Investors Ordinance (已廢除的《保障投資者條例》) means the Protection of Investors Ordinance (Cap 335) repealed under section 406 of this Ordinance;

repealed Securities and Futures (Clearing Houses) Ordinance (已廢除的《證券及期貨(結算所)條例》) means the Securities and Futures (Clearing Houses) Ordinance (Cap 420) repealed under section 406 of this Ordinance;

repealed Securities and Futures Commission Ordinance (已廢除的《證券及期貨事務監察委員會條例》) means the Securities and Futures Commission Ordinance (Cap 24) repealed under section 406 of this Ordinance;

repealed Securities (Disclosure of Interests) Ordinance (已廢除的《證券(披露權益)條例》) means the Securities (Disclosure of Interests) Ordinance (Cap 396) repealed under section 406 of this Ordinance;

repealed Securities (Insider Dealing) Ordinance (已廢除的《證券(內幕交易)條例》) means the Securities (Insider Dealing) Ordinance (Cap 395) repealed under section 406 of this Ordinance;

repealed Securities Ordinance (已廢除的《證券條例》) means the Securities Ordinance (Cap 333) repealed under section 406 of this Ordinance;

repealed Stock Exchanges Unification Ordinance (已廢除的《證券交易所合併條例》) means the Stock Exchanges Unification Ordinance (Cap 361) repealed under section 406 of this Ordinance;

responsible officer (負責人員) means an individual who is approved by the Commission under section 126(1) of this Ordinance as a responsible officer of a licensed corporation;

Risk Management Committee (風險管理委員會), in relation to a recognized exchange controller, means the committee of that name established under section 65(1) of this Ordinance by the controller;

rules (規章)-

- (a) in relation to a recognized exchange company, means the rules, regulations and directions, by whatever name they may be called and wherever contained, governing-
 - (i) its exchange participants;
 - (ii) the persons who may participate in any of the services it provides;
 - (iii) the setting and levying of fees;
 - (iv) the listing of securities;
 - (v) the trading of securities or futures contracts;
 - (vi) the provision of other services; or
 - (vii) generally, its management, operations or procedures, and includes, in respect of sections 24 and 92 of this Ordinance, its constitution;
- (b) in relation to a recognized clearing house, means the rules, regulations and directions, by whatever name they may be called and wherever contained, governing-
 - (i) its clearing participants;
 - (ii) the persons who may participate in any of the services it provides;
 - (iii) the setting and levying of fees;
 - (iv) the provision of clearing and settlement services, and the suspension or withdrawal of such services;
 - (v) the provision of other services; or
 - (vi) generally, its management, operations or procedures, and includes, in respect of sections 41 and 92 of this Ordinance, its constitution;
- (c) in relation to a recognized exchange controller, means-
 - (i) its constitution; or
 - (ii) the rules, regulations and directions, by whatever name they may be called and wherever contained, governing the conduct or procedures of-
 - (A) the recognized exchange controller;
 - (B) the Risk Management Committee; or
 - (C) any person or body of persons declared in a notice under section 66(2) of this Ordinance to be a person or body of persons (as the case may be) to which this sub-subparagraph shall apply; or
- (d) in relation to a recognized investor compensation company, means-
 - (i) its constitution; or
 - (ii) the rules, regulations and directions, by whatever name they may be called and wherever contained, governing its management, operations or procedures, or its provision of services;

securities (證券) means-

- (a) shares, stocks, debentures, loan stocks, funds, bonds or notes of, or issued by, a body, whether incorporated or unincorporated, or a government or municipal government authority;
- (b) rights, options or interests (whether described as units or otherwise) in, or in respect of, such shares, stocks, debentures, loan stocks, funds, bonds or notes;
- (c) certificates of interest or participation in, temporary or interim certificates for, receipts for, or warrants to subscribe for or purchase, such shares, stocks, debentures, loan stocks, funds, bonds or notes;
- (d) interests in any collective investment scheme;
- (e) interests, rights or property, whether in the form of an instrument or otherwise, commonly known as securities;
- (f) interests, rights or property which is interests, rights or property, or is of a class or description of interests, rights or property, prescribed by notice under section 392 of this Ordinance as being regarded as securities in accordance with the terms of the notice; (Amended 8 of 2011 s. 14)
- (g) a structured product that does not come within any of paragraphs (a) to (f) but in respect of which the issue of any advertisement, invitation or document that is or contains an invitation to the public to do any act referred to in section 103(1)(a) of this Ordinance is authorized, or required to be authorized, under section 105(1) of this Ordinance, (Added 8 of 2011 s. 14)

but does not include-

- (i) shares or debentures of a company that is a private company within the meaning of section 11 of the Companies Ordinance (Cap 622); (Amended 28 of 2012 ss. 912 & 920)
- (ii) any interest in any collective investment scheme that is-
 - (A) a registered scheme as defined in section 2(1) of the Mandatory Provident Fund Schemes

- Ordinance (Cap 485), or its constituent fund as defined in section 2 of the Mandatory Provident Fund Schemes (General) Regulation (Cap 485 sub. leg. A);
- (B) an occupational retirement scheme as defined in section 2(1) of the Occupational Retirement Schemes Ordinance (Cap 426); or
- (C) a contract of insurance in relation to any class of insurance business specified in the First Schedule to the Insurance Companies Ordinance (Cap 41);
- (iii) any interest arising under a general partnership agreement or proposed general partnership agreement unless the agreement or proposed agreement relates to an undertaking, scheme, enterprise or investment contract promoted by or on behalf of a person whose ordinary business is or includes the promotion of similar undertakings, schemes, enterprises or investment contracts (whether or not that person is, or is to become, a party to the agreement or proposed agreement);
- (iv) any negotiable receipt or other negotiable certificate or document evidencing the deposit of a sum of money, or any rights or interest arising under the receipt, certificate or document;
- (v) any bill of exchange within the meaning of section 3 of the Bills of Exchange Ordinance (Cap 19) and any promissory note within the meaning of section 89 of that Ordinance;
- (vi) any debenture that specifically provides that it is not negotiable or transferable (excluding a debenture that is a structured product in respect of which the issue of any advertisement, invitation or document that is or contains an invitation to the public to do any act referred to in section 103(1)(a) of this Ordinance is authorized, or required to be authorized, under section 105(1) of this Ordinance); (Amended 8 of 2011 s. 14)
- (vii) interests, rights or property which is interests, rights or property, or is of a class or description of interests, rights or property, prescribed by notice under section 392 of this Ordinance as not being regarded as securities in accordance with the terms of the notice;

Securities and Futures Appeals Tribunal (上訴審裁處) means the Securities and Futures Appeals Tribunal established by section 216 of this Ordinance;

securities and futures industry (證券期貨業) means the securities and futures market and participants (other than investors) therein (including recognized exchange companies, recognized clearing houses, recognized exchange controllers, recognized investor compensation companies and persons carrying on any regulated activity), and any activities related to financial products that are carried on in such securities and futures market or by such participants;

securities and futures market (證券期貨市場) means any market, exchange, place or service which facilitates the bringing together on a regular basis persons who are parties to transactions related to financial products;

securities borrowing and lending agreement (證券借貸協議) means an agreement whereby a person borrows or lends securities pursuant to an arrangement where the borrower undertakes to return securities of the same description, or pay the equivalent value of the securities, to the lender, and includes a stock borrowing within the meaning of section 19(16) of the Stamp Duty Ordinance (Cap 117);

securities collateral (證券抵押品)-

- (a) in relation to a licensed corporation, means any securities-
 - (i) deposited with, or otherwise provided by or on behalf of a client of the licensed corporation to, the licensed corporation; or
 - (ii) deposited with, or otherwise provided by or on behalf of a client of the licensed corporation to, any other intermediary or person,
 - which are so deposited or provided-
 - (A) as security for the provision by the licensed corporation of financial accommodation; or
 - (B) to facilitate the provision by the licensed corporation of financial accommodation under an arrangement that confers on the licensed corporation a collateral interest in the securities; or
- (b) in relation to a registered institution, means any securities-
 - (i) deposited with, or otherwise provided by or on behalf of a client of the registered institution to, the registered institution, in the course of the conduct of any regulated activity for which the registered institution is registered; or
 - (ii) deposited with, or otherwise provided by or on behalf of a client of the registered institution to, any other intermediary or person, in relation to such conduct of the regulated activity,
 - which are so deposited or provided-
 - (A) as security for the provision by the registered institution of financial accommodation; or

(B) to facilitate the provision by the registered institution of financial accommodation under an arrangement that confers on the registered institution a collateral interest in the securities;

securities margin financing (證券保證金融資) has the meaning assigned to it by Part 2 of Schedule 5 to this Ordinance;

served (送達) includes given;

shadow director (幕後董事) means a person in accordance with whose directions or instructions the directors of a corporation are accustomed or obliged to act, but a person shall not be regarded as a shadow director by reason only of the fact that the directors act on advice given by him in a professional capacity;

share (股份) means any share in the share capital of a corporation, and, except where a distinction between stock and shares is express or implied, includes stock;

short selling order (賣空指示)-

- (a) subject to paragraph (b), means an order to sell securities in respect of which the seller, or the person for whose benefit or on whose behalf the order is made, has a presently exercisable and unconditional right to vest the securities in the purchaser of them by virtue of having-
 - (i) under a securities borrowing and lending agreement-
 - (A) borrowed the securities; or
 - (B) obtained a confirmation from the counterparty to the agreement that the counterparty has the securities available to lend to him;
 - (ii) a title to other securities which are convertible into or exchangeable for the securities to which the order relates;
 - (iii) an option to acquire the securities to which the order relates;
 - (iv) rights or warrants to subscribe for and to receive the securities to which the order relates; or
 - (v) entered into with any other person an agreement or arrangement of a description prescribed by rules made under section 397 of this Ordinance for the purposes of this subparagraph;
- (b) in relation to paragraph (a)(ii), (iii), (iv) or (v), does not include an order where the seller, or the person for whose benefit or on whose behalf the order is made, has, at the time of placing the order, issued unconditional instructions to obtain the securities to which the order relates;

specified debt securities (指明債務證券) means debenture stocks, loan stocks, debentures, bonds, notes, indexed bonds, convertible debt securities, bonds with warrants, non-interest bearing debt securities and other securities or instruments acknowledging, evidencing or creating indebtedness-

- (a) which are issued or guaranteed by the Government;
- (b) which are issued by an issuer that has a qualifying credit rating for any of its debt instruments; or
- (c) which are issued by any other issuer as may be approved by the Commission in writing in a particular case;

specified futures exchange (指明期貨交易所) means a futures exchange specified in Part 2;

specified stock exchange (指明證券交易所) means a stock exchange specified in Part 3;

Stock Exchange Company (聯交所) means the company incorporated, and registered by the name The Stock Exchange of Hong Kong Limited, under the relevant Ordinance; (Amended 28 of 2012 ss. 912 & 920)

stock market (證券市場) means a place where persons regularly meet together to negotiate sales and purchases of securities (including prices), or a place at which facilities are provided for bringing together sellers and purchasers of securities; but does not include the office of-

- (a) an exchange participant of a recognized exchange company which may operate a stock market; or
- (b) a recognized clearing house;

structured product (結構性產品) has the meaning given by section 1A of this Part; (Added 8 of 2011 s. 14)

take-over offer (收購要約), in relation to a corporation, means an offer made to all the holders (or all the holders other than the person making the offer and his nominees) of the shares in the corporation to acquire the shares or a specified proportion of them, or to all the holders (or all the holders other than the person making the offer and his nominees) of a particular class of the shares to acquire the shares of the class or a specified proportion of them;

title (稱銜) includes name or description;

trading right (交易權), in relation to a recognized exchange company, means a right to be eligible to trade through that exchange company or on a recognized stock market or a recognized futures market operated by

that exchange company and entered as such a right in a list, roll or register kept by that exchange company.
(Amended 23 of 2004 s. 56; 30 of 2004 s. 3; 28 of 2012 ss. 912 & 920)

1A. Meaning of *structured product*

- (1) In this Ordinance, subject to subsection (2), ***structured product*** (結構性產品) means-
- (a) an instrument under which some or all of the return or amount due (or both the return and the amount due) or the method of settlement is determined by reference to one or more of-
 - (i) changes in the price, value or level (or a range within the price, value or level) of any type or combination of types of securities, commodity, index, property, interest rate, currency exchange rate or futures contract;
 - (ii) changes in the price, value or level (or a range within the price, value or level) of any basket of more than one type, or any combination of types, of securities, commodity, index, property, interest rate, currency exchange rate or futures contract; or
 - (iii) the occurrence or non-occurrence of any specified event or events (excluding an event or events relating only to the issuer or guarantor of the instrument or to both the issuer and the guarantor);
 - (b) a regulated investment agreement; or
 - (c) any interests, rights or property prescribed, or of a class or description prescribed, by notice under section 392 of this Ordinance as being regarded as structured products in accordance with the notice.
- (2) A ***structured product*** does not include-
- (a) a debenture issued for capital fund raising purposes that is convertible into or exchangeable for shares (whether issued or unissued) of the issuer of the debenture or of a related corporation of the issuer;
 - (b) a subscription warrant issued for capital fund raising purposes that entitles the holder to subscribe for shares (whether issued or unissued) of the issuer of the warrant or of a related corporation of the issuer;
 - (c) a collective investment scheme;
 - (d) a depositary receipt;
 - (e) a debenture that would come within subsection (1)(a) only because it has a variable interest rate that is reset periodically to equate to a money market or interbank reference interest rate that is widely quoted (whether or not subject to a predetermined maximum or minimum rate) plus or minus a specified rate (if any);
 - (f) a product under which some or all of the return or amount due (or both the return and the amount due) or the method of settlement is determined by reference to securities of a corporation, or of a related corporation of the corporation, and that is issued by the corporation only to a person who is-
 - (i) a bona fide employee or former employee of the corporation or of a related corporation of the corporation; or
 - (ii) a spouse, widow, widower, minor child (natural or adopted) or minor step-child of a person referred to in subparagraph (i);
 - (g) a product that may be possessed, promoted, offered, sold, printed or published only-
 - (i) under a licence, permission or other authorization under the Betting Duty Ordinance (Cap 108) or the Gambling Ordinance (Cap 148); or
 - (ii) under the Government Lotteries Ordinance (Cap 334);
 - (h) an instrument issued in relation to-
 - (i) a contest authorized by section 37 of the Broadcasting Ordinance (Cap 562); or
 - (ii) a contest included in a service licensed under Part 3A of the Telecommunications Ordinance (Cap 106);
 - (i) a contract of insurance in relation to any class of insurance business specified in the First Schedule to the Insurance Companies Ordinance (Cap 41); or
 - (j) any interests, rights or property prescribed, or of a class or description prescribed, by notice under section 392 of this Ordinance as not being regarded as structured products in accordance with the notice.

(Added 8 of 2011 s. 14)

2. References to subsidiary

- (1) For the purposes of this Ordinance, a corporation shall be regarded as a subsidiary of another corporation if-

- (a) the other corporation-
 - (i) controls the composition of its board of directors;
 - (ii) controls more than half of its voting power at general meetings; or
 - (iii) holds more than half of its issued share capital (which issued share capital, for the purposes of this subparagraph, excludes any part thereof which carries no right to participate beyond a specified amount on a distribution of either profits or capital); or
 - (b) it is a subsidiary of a corporation which is the other corporation's subsidiary.
- (2) For the purposes of subsection (1), in determining whether a corporation is a subsidiary of another corporation-
- (a) any shares held or power exercisable by the other corporation in a fiduciary capacity shall be regarded as not held or exercisable by it;
 - (b) subject to paragraphs (c) and (d), any shares held or power exercisable-
 - (i) by a nominee for the other corporation (except where the other corporation is concerned only in a fiduciary capacity); or
 - (ii) by, or by a nominee for, a subsidiary of the other corporation, not being a subsidiary which is concerned only in a fiduciary capacity, shall be regarded as held or exercisable by the other corporation;
 - (c) any shares held or power exercisable by a person under a debenture of the corporation or under a trust deed for securing the issue of the debenture shall be disregarded; and
 - (d) any shares held or power exercisable by, or by a nominee for, the other corporation or its subsidiary, not being held or exercisable as mentioned in paragraph (c), shall be regarded as not held or exercisable by the other corporation if the ordinary business of the other corporation or its subsidiary (as the case may be) includes the lending of money and the shares are held or power is exercisable by way of security only for a transaction entered into in the ordinary course of that business.

3. References to related corporation

For the purposes of this Ordinance-

- (a) 2 or more corporations shall be regarded as related corporations of each other if one of them is-
 - (i) the holding company of the other;
 - (ii) a subsidiary of the other; or
 - (iii) a subsidiary of the holding company of the other;
- (b) when an individual-
 - (i) controls the composition of the board of directors of one or more corporations;
 - (ii) controls more than half of the voting power at general meetings of one or more corporations; or
 - (iii) holds more than half of the issued share capital (which issued share capital, for the purposes of this subparagraph, excludes any part thereof which carries no right to participate beyond a specified amount on a distribution of either profits or capital) of one or more corporations,
 each of the corporations referred to in subparagraph (i), (ii) or (iii), and each of their subsidiaries, shall be regarded as related corporations of each other.

4. References to controlling the composition of a corporation's board of directors

- (1) For the purposes of this Ordinance, the composition of a corporation's board of directors shall be regarded as controlled by another corporation if the other corporation, by the exercise of some power exercisable by it, can, without the consent or concurrence of any other person, appoint or remove all or a majority of the directors of the corporation.
- (2) For the purposes of subsection (1), a corporation shall be regarded as being able to appoint or remove a director of another corporation if-
 - (a) the appointment or removal cannot occur without the corporation exercising a power; or
 - (b) the appointment of a person as a director of the other corporation follows necessarily from his being a director or other officer of the corporation.
- (3) For the purposes of this Ordinance, the composition of a corporation's board of directors shall be regarded as controlled by an individual if the individual, by the exercise of some power exercisable by him, can, without the consent or concurrence of any other person, appoint or remove all or a majority of the directors

of the corporation.

- (4) For the purposes of subsection (3), an individual shall be regarded as being able to appoint or remove a director of a corporation if-
- (a) the appointment or removal cannot occur without the individual exercising a power; or
 - (b) the appointment of a person as a director of the corporation follows necessarily from his being a director or other officer of another corporation and his appointment as a director or other officer of the other corporation cannot occur without the individual exercising a power.

5. References to wholly owned subsidiary

For the purposes of this Ordinance, a body corporate shall be regarded as the wholly owned subsidiary of another body corporate if it has no members except that other, that other's nominee, that other's wholly owned subsidiary (as construed in accordance with this section), such wholly owned subsidiary's nominee, or any combination thereof.

6. References to substantial shareholder

- (1) For the purposes of this Ordinance, a person shall, in relation to a corporation, be regarded as a substantial shareholder of the corporation if he, either alone or with any of his associates-
- (a) has an interest in shares in the corporation-
 - (i) the aggregate number of which shares is equal to more than 10% of the total number of issued shares of the corporation; or (Amended 28 of 2012 ss. 912 & 920)
 - (ii) which entitles the person, either alone or with any of his associates and either directly or indirectly, to exercise or control the exercise of more than 10% of the voting power at general meetings of the corporation; or
 - (b) holds shares in any other corporation which entitles him, either alone or with any of his associates and either directly or indirectly, to exercise or control the exercise of 35% or more of the voting power at general meetings of the other corporation, or of a further corporation, which is itself entitled, either alone or with any of its associates and either directly or indirectly, to exercise or control the exercise of more than 10% of the voting power at general meetings of the corporation.
- (2) For the purposes of subsection (1), a person shall be regarded as being entitled to exercise or control the exercise of 35% or more of the voting power at general meetings of a corporation indirectly if he, either alone or with any of his associates, has an interest in shares in a further corporation which entitles him, either alone or with any of his associates, to exercise or control the exercise of 35% or more of the voting power at general meetings of the further corporation which is itself entitled, either alone or with any of its associates, to exercise or control the exercise of 35% or more of the voting power at general meetings of the first-mentioned corporation.

7. References to securities of a corporation

In this Ordinance, a reference to securities (however described) as those of a corporation shall, unless the context otherwise requires, be construed as a reference to securities (having the applicable meaning, whether under section 1 or otherwise) which are-

- (a) issued, made available or granted by the corporation;
- (b) proposed to be issued, made available or granted by the corporation; or
- (c) proposed to be issued, made available or granted by the corporation when it is incorporated.

8. References to interest of investing public

In this Ordinance, a reference to the interest of the investing public does not include any interest the taking into consideration of which is or is likely to be contrary to the public interest.

9. References to conditions

In this Ordinance, unless the context otherwise requires, a reference to any condition imposed under or pursuant

to any provision of this Ordinance shall, in any case where the condition has been amended (however described) under or pursuant to any provision of this Ordinance, be construed as a reference to the condition as so amended.

10. References relating to regulated activity

In this Ordinance-

- (a) unless otherwise defined or excluded or the context otherwise requires, a person shall be regarded as carrying on a regulated activity if-
 - (i) he carries on a business in a regulated activity; or
 - (ii) he performs for or on behalf of or by arrangement with a person carrying on a business in a regulated activity, any regulated function (as defined in section 113(1) of this Ordinance) in relation to the regulated activity;
- (b) a person shall be regarded as carrying on a regulated activity for an intermediary if he performs for or on behalf of or by arrangement with the intermediary any regulated function (as defined in section 113(1) of this Ordinance) in relation to the regulated activity;
- (c)
 - (i) a corporation licensed under section 116 or 117 of this Ordinance to carry on a regulated activity shall be regarded as being licensed for that regulated activity;
 - (ii) an individual licensed under section 120 or 121 of this Ordinance to carry on a regulated activity for a licensed corporation shall be regarded as being licensed for that regulated activity.

11. References to contravention, etc.

In this Ordinance, unless the context otherwise requires-

- (a) a reference to contravention shall-
 - (i) be construed as including a reference to failure to comply; and
 - (ii) in relation to any provision of any Ordinance, be construed as including a reference to the commission of an offence under the provision;
- (b) a reference to failure to comply shall-
 - (i) be construed as including a reference to contravention; and
 - (ii) in relation to any provision of any Ordinance, be construed as including a reference to the commission of an offence under the provision.

12. References to Ordinance

For the avoidance of doubt, in this Ordinance, a reference to this or any other Ordinance, whether generally or specifically and whether by reference to the short title of the Ordinance or otherwise, shall, unless the context otherwise requires, be construed as including any subsidiary legislation made under this or that other Ordinance (as the case may be).

13. Notes in Ordinance

A note located in the text of this Ordinance is provided for information only and has no legislative effect.

(Added 9 of 2012 s. 11)

Part 2

Specified Futures Exchanges

1. ASX Limited
2. Australian Securities Exchange Limited
3. BM&FBOVESPA S.A. – Bolsa de Valores, Mercadorias e Futuros
4. Board of Trade of the City of Chicago, Inc.
5. Chicago Board Options Exchange, Incorporated
6. Chicago Mercantile Exchange Inc.
7. China Financial Futures Exchange

8. Commodity Exchange, Inc.
9. Dalian Commodity Exchange
10. Eurex Frankfurt AG
11. Eurex Zürich AG
12. Euronext Amsterdam N.V.
13. Euronext Paris S.A.
14. Hong Kong Futures Exchange Limited
15. ICE Futures Canada, Inc.
16. ICE Futures U.S., Inc.
17. Korea Exchange, Inc.
18. LIFFE Administration and Management
19. Montréal Exchange Inc.
20. Multi Commodity Exchange of India Limited
21. National Commodity & Derivatives Exchange Limited
22. NASDAQ OMX PHLX LLC
23. NASDAQ OMX Stockholm AB
24. New York Mercantile Exchange, Inc.
25. New Zealand Futures and Options Exchange Limited
26. NYSE Arca, Inc.
27. Osaka Securities Exchange Co., Ltd.
28. Shanghai Futures Exchange
29. Singapore Exchange Derivatives Trading Limited
30. The London Metal Exchange Limited
31. Tokyo Financial Exchange Inc.
32. Tokyo Grain Exchange Inc.
33. Tokyo Stock Exchange, Inc.
34. Zhengzhou Commodity Exchange

(Replaced L.N. 94 of 2012)

Part 3

Specified Stock Exchanges

1. ASX Limited
2. BSE Limited
3. Borsa Italiana S.p.A.
4. Bursa Malaysia Securities Berhad
5. Deutsche Börse AG
6. Euronext Amsterdam N.V.
7. Euronext Brussels S.A./N.V.
8. Euronext Paris S.A.
9. Korea Exchange, Inc.
10. London Stock Exchange plc
11. Montréal Exchange Inc.
12. Nagoya Stock Exchange, Inc.
13. NASDAQ OMX Copenhagen A/S
14. NASDAQ OMX Helsinki Ltd
15. NASDAQ OMX Stockholm AB
16. National Stock Exchange of India Limited
17. New York Stock Exchange LLC
18. NYSE Amex LLC
19. NZX Limited
20. Osaka Securities Exchange Co., Ltd.
21. Oslo Børs ASA
22. Singapore Exchange Securities Trading Limited

23. SIX Swiss Exchange AG
24. Sociedad Rectora de la Bolsa de Valores de Madrid, S.A. (Sociedad Unipersonal)
25. Société de la Bourse de Luxembourg S.A.
26. The NASDAQ Stock Market LLC
27. The Philippine Stock Exchange, Inc.
28. The Stock Exchange of Hong Kong Limited
29. The Stock Exchange of Thailand
30. Tokyo Stock Exchange, Inc.
31. TSX Inc.
32. Wiener Börse AG

(Replaced L.N. 94 of 2012)

Part 4

Multilateral Agencies

1. The African Development Bank
2. The Asian Development Bank
3. The European Bank for Reconstruction and Development
4. The European Investment Bank
5. The Inter-American Development Bank
6. The International Bank for Reconstruction and Development (commonly known as the World Bank)
7. The International Finance Corporation (an affiliate of the World Bank)

Part 5

Qualifying Credit Rating

1. A Moody's Investors Service rating of-
 - (a) A3 or above for long term debt; or
 - (b) Prime-3 or above for short term debt.
2. A Standard & Poor's Corporation rating of-
 - (a) A or above for long term debt; or
 - (b) A-3 or above for short term debt.

(Amended E.R. 2 of 2012)
(Format changes—E.R. 2 of 2012)

Note:

* **Commencement date : 3 March 2014.**

Chapter:	571	Securities and Futures Ordinance	Gazette Number	Version Date
Schedule:	2	Securities and Futures Commission	L.N. 95 of 2012	01/01/2013

[sections 3, 7 & 10 &
Schedules 1 & 10]

Part 1

Constitution and Proceedings of Commission, etc.

Chairman, chief executive officer and other members of Commission

(Amended 15 of 2006 s. 6)

1. The Commission shall consist of a chairman, a chief executive officer and such number of other executive

directors and non-executive directors as is determined by the Chief Executive, all of whom shall be appointed by the Chief Executive as follows- (Amended 15 of 2006 s. 6)

- (a) the number of members of the Commission shall not be less than 8; and
- (b) the number of non-executive directors of the Commission shall exceed the number of executive directors of the Commission. (Replaced 15 of 2006 s. 6)

- 2. (Repealed 15 of 2006 s. 6)
- 3. When the membership of the Commission ceases to comply with the requirements of section 1, the Chief Executive shall as soon as reasonably practicable thereafter make the necessary appointment to ensure that the requirements are complied with.

Deputy chairman and vacancies in office of chairman or deputy chairman

- 4. The Chief Executive may appoint an executive director or non-executive director of the Commission to be the deputy chairman of the Commission. (Amended 15 of 2006 s. 6)
- 5. If the office of chairman of the Commission is vacant or the chairman of the Commission is unable to act as chairman due to illness, absence from Hong Kong or any other cause, the deputy chairman appointed under section 4 shall act as chairman in his place.
- 6. Notwithstanding that a deputy chairman has been appointed under section 4, the chairman of the Commission may, where there is no designation under section 7, designate an executive director or non-executive director of the Commission to act as chairman of the Commission for any period during which both he and the deputy chairman are unable to act as chairman due to illness, absence from Hong Kong or any other cause, and may at any time revoke any such designation. (Amended 15 of 2006 s. 6)
- 7. If-
 - (a) no deputy chairman has been appointed under section 4 or the office of deputy chairman of the Commission is vacant; or
 - (b) the deputy chairman appointed under section 4 is unable to act as chairman due to illness, absence from Hong Kong or any other cause, and there is no designation under section 6,the Financial Secretary may designate an executive director or non-executive director of the Commission to act as chairman of the Commission for any period during which the chairman of the Commission is unable to act as chairman due to illness, absence from Hong Kong or any other cause. (Amended 15 of 2006 s. 6)
- 8. A designation under section 7 ceases to have effect when-
 - (a) it is revoked by the Financial Secretary;
 - (b) where the designation is under section 7(a), an appointment is made under section 4; or
 - (c) where the designation is under section 7(b), the deputy chairman appointed under section 4 is able to act as chairman,whichever is the earlier.
- 9. A deputy chairman of the Commission who acts as chairman of the Commission under section 5, or an executive director or non-executive director of the Commission who acts as chairman of the Commission in accordance with a designation under section 6 or 7, shall be deemed for all purposes to be the chairman of the Commission. (Replaced 15 of 2006 s. 6)
- 9A. Notwithstanding section 9-
 - (a) an executive director of the Commission shall not cease to be regarded as such only because of his acting as chairman of the Commission; and
 - (b) a non-executive director of the Commission shall not cease to be regarded as such only because of his acting as chairman of the Commission. (Added 15 of 2006 s. 6)

Vacancy in office of chief executive officer

(Added 15 of 2006 s. 6)

- 9B. The Chief Executive may designate an executive director of the Commission to act as chief executive officer of the Commission for any period during which the chief executive officer of the Commission is unable to act as chief executive officer due to illness, absence from Hong Kong or any other cause, and may at any time revoke any such designation. (Added 15 of 2006 s. 6)
- 9C. An executive director of the Commission who acts as chief executive officer of the Commission shall be deemed for all purposes to be the chief executive officer of the Commission. (Added 15 of 2006 s. 6)

Functions and office of members, etc.

(Amended 15 of 2006 s. 6)

- 9D. Subject to the other provisions of this Ordinance, the chairman, deputy chairman and chief executive officer of the Commission shall have such functions as are assigned to them by the Commission. (Added 15 of 2006 s. 6)
10. The terms and conditions of the office of a member of the Commission (whether as the chairman, deputy chairman, chief executive officer or otherwise) shall be determined by the Chief Executive. (Amended 15 of 2006 s. 6)
11. A member of the Commission (whether as the chairman, deputy chairman, chief executive officer or otherwise) may at any time resign his office by notice in writing to the Chief Executive. (Amended 15 of 2006 s. 6)
12. A member of the Commission (whether as the chairman, deputy chairman, chief executive officer or otherwise) shall be paid by the Commission such remuneration, allowances or expenses as the Chief Executive may determine. (Amended 15 of 2006 s. 6)
13. The Chief Executive may by notice in writing remove from office any member of the Commission (whether as the chairman, deputy chairman, chief executive officer or otherwise) whose removal appears to him to be desirable for the effective performance by the Commission of its functions. (Amended 15 of 2006 s. 6)

Meetings

14. Meetings of the Commission shall be held as often as may be necessary for the performance of its functions, and may be convened by the chairman, deputy chairman, chief executive officer, or any 2 other members, of the Commission. (Amended 15 of 2006 s. 6)
15. At a meeting of the Commission-
- (a) if the chairman of the Commission is present, he shall be the chairman of the meeting;
 - (b) if the chairman of the Commission is not present but the deputy chairman of the Commission is present, the deputy chairman shall be the chairman of the meeting; or
 - (c) if neither the chairman nor the deputy chairman of the Commission is present, the members of the Commission present shall choose one of their number to be the chairman of the meeting.
16. The quorum for a meeting of the Commission is not less than one third of the executive directors of the Commission and not less than one third of the non-executive directors of the Commission.
- 16A. For the purpose of forming a quorum under section 16-
- (a) subject to paragraph (b), the chairman of the Commission shall be counted as a non-executive director of the Commission; and
 - (b) notwithstanding sections 9 and 9A-
 - (i) an executive director of the Commission who acts as chairman of the Commission shall only be counted as an executive director of the Commission; and
 - (ii) a non-executive director of the Commission who acts as chairman of the Commission shall only be counted as a non-executive director of the Commission. (Added 15 of 2006 s. 6)

17. A member of the Commission shall be regarded as being present at a meeting of the Commission if he participates in the meeting by telephone, video conferencing or other electronic means, provided he is able to hear the other members present at the meeting and they are able to hear him.
18. Each member of the Commission present at a meeting of the Commission has one vote.
19. Every question for decision at a meeting of the Commission shall be determined by a majority of votes of its members present and, in the event that voting is equally divided, the chairman of the meeting shall, subject to section 20, have a casting vote.
20. The chairman of a meeting of the Commission shall not exercise a casting vote in respect of any question for decision at the meeting until after he has consulted the Financial Secretary on the question.

Written resolution

21. Where a resolution-
 - (a) is in writing; and
 - (b) is signed by such number of members of the Commission as-
 - (i) would include all of the members of the Commission who are, at any time when the resolution is made available for signature, present in Hong Kong and capable of signing the resolution; and
 - (ii) is also not less than one third of the executive directors of the Commission and not less than one third of the non-executive directors of the Commission,the resolution shall be as valid and effectual as if it had been passed at a meeting of the Commission convened and conducted in accordance with this Ordinance.
22. For the purposes of section 21, a resolution to which that section applies may be-
 - (a) in the form of one document; or
 - (b) in the form of more than one document, each in the like form and signed by one or more members of the Commission.
23. Where a resolution is in the form of more than one document as described in section 22(b), the requirement under section 21(b) shall be regarded as having been satisfied if the documents together bear the signatures of such number of members of the Commission as is specified in section 21(b)(i) and (ii).
24. For the purposes of sections 21 to 23-
 - (a) a document shall be regarded as having been signed by a member of the Commission if a telex, cable, facsimile or electronic transmission of a document bears the signature of the member; and
 - (b) a resolution to which section 21 applies shall be regarded as made on the date on which the resolution is signed by the last person signing as a member of the Commission for the purposes of that section.

Seal, and regulation of administration, etc.

25. The Commission shall have a seal, the affixing of which shall be authenticated by the signature of the chairman or the deputy chairman of the Commission, or by the signature of such other member of the Commission as is authorized by it to act in that behalf.
26. The Commission shall organize and regulate its administration, procedure and business in such manner as it considers will, subject to the requirements of this Ordinance, best ensure the performance of its functions.

Advisory Committee

27. The Advisory Committee shall consist of-
 - (a) the chairman of the Commission;
 - (aa) the chief executive officer of the Commission; (Added 15 of 2006 s. 6)

- (b) not more than 2 other executive directors of the Commission who shall be appointed by the Commission;
 - (c) not less than 8 (but not more than 12) other members who shall be appointed by the Chief Executive after consultation with the Commission.
28. A meeting of the Advisory Committee may be convened by-
- (a) the chairman of the Commission; (Amended 15 of 2006 s. 6)
 - (aa) the chief executive officer of the Commission; or (Added 15 of 2006 s. 6)
 - (b) any 3 other members of the Advisory Committee.
29. At a meeting of the Advisory Committee-
- (a) if the chairman of the Commission is present, he shall be the chairman of the meeting; or
 - (b) if the chairman of the Commission is not present, the members of the Advisory Committee present shall choose one of their number to be the chairman of the meeting.
30. Where a member of the Advisory Committee appointed under section 27(b) ceases to be an executive director of the Commission, he ceases to be a member of the Advisory Committee.
31. A member of the Advisory Committee appointed under section 27(b) or (c) may at any time resign his office by notice in writing to-
- (a) where he has been appointed under section 27(b), the Commission; or
 - (b) where he has been appointed under section 27(c), the Chief Executive.
32. The Chief Executive may by notice in writing remove from office any member of the Advisory Committee appointed under section 27(c).

Part 2

Non-Delegable Functions of Commission

1. Any function of the Commission to make subsidiary legislation under or pursuant to any Ordinance.
2. The following functions of the Commission-
 - (1) to borrow money, under section 5(4)(d) of this Ordinance;
 - (1A) to establish a wholly owned subsidiary, under section 5(4)(da) of this Ordinance; (Added 9 of 2012 s. 33)
 - (2) to publish or otherwise make available materials, under section 5(4)(e) of this Ordinance;
 - (3) to establish any committee, under section 8(1) of this Ordinance;
 - (4) to refer any matter to a committee, under section 8(2) of this Ordinance;
 - (5) to appoint a person to be a member or chairman of a committee, under section 8(3) of this Ordinance;
 - (6) to withdraw a reference from a committee, or to revoke an appointment of a member or chairman of a committee, under section 8(5) of this Ordinance;
 - (7) to submit to the Chief Executive estimates, under section 13(2) of this Ordinance;
 - (8) to prepare any financial statements, under section 15(2) of this Ordinance;
 - (9) to prepare any report, under section 15(3) of this Ordinance;
 - (10) to appoint auditors, under section 16(1) of this Ordinance;
 - (11) (Repealed 9 of 2012 s. 47)
 - (12) to recognize a company as an exchange company under, or to impose conditions pursuant to, section 19(2) of this Ordinance;
 - (13) to amend or revoke conditions, or impose new conditions, under section 19(3) of this Ordinance;
 - (14) to give a company a reasonable opportunity of being heard, under section 19(7) of this Ordinance;
 - (15) to request a recognized exchange company to make or amend rules, under section 23(3) of this Ordinance;
 - (16) to refuse to give approval to any rules or amendment of any rules, or any part thereof, under section 24(3) of this Ordinance;

- (17) to advise the Financial Secretary to extend time, pursuant to section 24(6) of this Ordinance;
- (18) to declare any class of rules to be a class of rules which are not required to be approved, under section 24(7) of this Ordinance;
- (19) to request the Chief Executive in Council to transfer any function of the Commission, under section 25(1) of this Ordinance;
- (20) to request the Chief Executive in Council to order that the Commission resume any function, pursuant to section 25(7) of this Ordinance;
- (21) to approve the appointment of a person as chief executive, pursuant to section 26 of this Ordinance;
- (22) to withdraw recognition of a recognized exchange company, under section 28(1)(a) of this Ordinance;
- (23) to direct a recognized exchange company to cease to provide or operate facilities or to cease to provide services, under section 28(1)(b) of this Ordinance;
- (24) to direct a recognized exchange company to cease to provide or operate facilities or to cease to provide services, under section 29(1) of this Ordinance;
- (25) to extend a direction, under section 29(3) of this Ordinance;
- (26) to recognize a company as a clearing house under, or to impose conditions pursuant to, section 37(1) of this Ordinance;
- (27) to amend or revoke conditions, or impose new conditions, under section 37(2) of this Ordinance;
- (28) to give a company a reasonable opportunity of being heard, under section 37(5) of this Ordinance;
- (29) to request a recognized clearing house to make or amend rules, under section 40(4) of this Ordinance;
- (30) to refuse to give approval to any rules or amendment of any rules, or any part thereof, under section 41(3) of this Ordinance;
- (31) to advise the Financial Secretary to extend time, pursuant to section 41(6) of this Ordinance;
- (32) to declare any class of rules to be a class of rules which are not required to be approved, under section 41(7) of this Ordinance;
- (33) to withdraw recognition of a recognized clearing house, under section 43(1)(a) of this Ordinance;
- (34) to direct a recognized clearing house to cease to provide or operate facilities, under section 43(1)(b) of this Ordinance;
- (35) to recognize a company as an exchange controller under, or to impose conditions pursuant to, section 59(2) of this Ordinance;
- (36) to amend or revoke conditions, or impose new conditions, under section 59(3) of this Ordinance;
- (37) to direct a person to take specified steps, under section 59(9)(c) of this Ordinance;
- (38) to give a company a reasonable opportunity of being heard, under section 59(18) of this Ordinance;
- (39) to approve the increase or decrease of any interest a recognized exchange controller has in a recognized exchange company or recognized clearing house, pursuant to section 60(a) of this Ordinance;
- (40) to approve a person for becoming a minority controller of a recognized exchange controller, recognized exchange company or recognized clearing house, pursuant to section 61(1) of this Ordinance;
- (41) to refuse to give approval to any rules or amendment of any rules, or any part thereof, under section 67(3) of this Ordinance;
- (42) to advise the Financial Secretary to extend time, pursuant to section 67(6) of this Ordinance;
- (43) to declare any class of rules to be a class of rules which are not required to be approved, under section 67(7) of this Ordinance;
- (44) to request the Chief Executive in Council to transfer any function of the Commission, under section 68(1) of this Ordinance;
- (45) to request the Chief Executive in Council to order that the Commission resume any function, pursuant to section 68(7) of this Ordinance;
- (46) to approve the appointment of a person as chief executive or chief operating officer, pursuant to section 70(1) of this Ordinance;
- (47) to remove a person from the office of a chief executive or chief operating officer, under section 70(2) of this Ordinance;
- (48) to withdraw recognition of a recognized exchange controller, under section 72(1)(i) of this Ordinance;
- (49) to direct a company to take specified steps, under section 72(1)(ii) of this Ordinance;
- (50) to give a recognized exchange controller a reasonable opportunity of being heard, pursuant to section 72(2) of this Ordinance;

- (51) to make statement in writing, pursuant to section 74(1) of this Ordinance;
- (52) to direct a recognized exchange controller or a relevant corporation to take specified steps, under section 75(1) of this Ordinance;
- (53) to approve a fee, pursuant to section 76(1) of this Ordinance;
- (54) to recognize a company as an investor compensation company under, or to impose conditions pursuant to, section 79(1) of this Ordinance;
- (55) to amend or revoke conditions, or impose new conditions, under section 79(2) of this Ordinance;
- (56) to give a company a reasonable opportunity of being heard, under section 79(5) of this Ordinance;
- (57) to request the Chief Executive in Council to transfer any function of the Commission, under section 80(1) of this Ordinance;
- (58) to request the Chief Executive in Council to order that the Commission resume any function, pursuant to section 80(7) of this Ordinance;
- (59) to refuse to give approval to any rules or amendment of any rules, or any part thereof, under section 83(3) of this Ordinance;
- (60) to advise the Financial Secretary to extend time, pursuant to section 83(6) of this Ordinance;
- (61) to declare any class of rules to be a class of rules which are not required to be approved, under section 83(7) of this Ordinance;
- (62) to withdraw recognition of a recognized investor compensation company, under section 85(1) of this Ordinance;
- (63) to approve the conduct of activities or businesses, pursuant to section 90(1) of this Ordinance;
- (64) to serve a notice, under section 92(1) of this Ordinance;
- (65) to extend the period during which a restriction notice is to remain in force, under section 92(7) of this Ordinance;
- (66) to apply to the Court of First Instance, pursuant to section 92(9) of this Ordinance;
- (67) to make a suspension order, under section 93(1) of this Ordinance;
- (68) to extend the period during which a suspension order is to remain in force, under section 93(9) of this Ordinance;
- (69) to appoint any person, other than an employee of the Commission, to investigate any of the matters referred to in section 182(1)(a) to (g) of this Ordinance, under section 182(1) of this Ordinance;
- (70) to cause a report to be published, under section 183(6) of this Ordinance;
- (71) to impose a prohibition or requirement, under section 204, 205 or 206 of this Ordinance;
- (72) to withdraw, substitute or vary a prohibition or requirement, under section 208(1) of this Ordinance;
- (73) to present a petition, under section 212 of this Ordinance;
- (74) to apply to the Court of First Instance, pursuant to section 213(1) of this Ordinance;
- (75) to apply to the Court of First Instance, under section 214(1) of this Ordinance;
- (76) to specify the time at which a specified decision is to take effect, under section 232(3) of this Ordinance;
- (77) to establish a compensation fund, under section 236 of this Ordinance;
- (78) to borrow, or to charge any investments by way of security, under section 237(2)(a) of this Ordinance;
- (79) to appoint an auditor, under section 240(5) of this Ordinance;
- (80) (Repealed 9 of 2012 s. 47)
- (81) to institute proceedings in the Market Misconduct Tribunal under section 252(1) of this Ordinance (Replaced 9 of 2012 s. 27)
- (81A) to institute disclosure proceedings under section 307I(1) of this Ordinance; (Added 9 of 2012 s. 12)
- (82) to publish guidelines, under section 309(1) of this Ordinance;
- (83) to make an application, pursuant to section 385(1) of this Ordinance;
- (84) to consult the Financial Secretary, under section 396(1) of this Ordinance;
- (85) to make recommendation to the Chief Executive in Council, under section 396(2) of this Ordinance;
- (86) to appoint members of the Advisory Committee, under section 27(b) of Part 1;
- (87) to direct any specified securities to be subject to restrictions, under section 1(2) of Part 6 of Schedule 3 to this Ordinance;
- (88) to apply to the Court of First Instance, pursuant to section 1(6)(a) of Part 6 of Schedule 3 to this Ordinance;
- (89) to apply to the Court of First Instance, pursuant to section 1(7) of Part 6 of Schedule 3 to this Ordinance.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
Section:	2	Interpretation	L.N. 163 of 2013	03/03/2014

(1) In this Ordinance—

accounting transaction (會計交易), in relation to a company, means a transaction that is required by section 373 to be entered in the company's accounting records, excluding a transaction arising from the payment of any fee that the company is required by an Ordinance to pay;

articles (章程細則), in relation to a company, means the articles of association of the company;

Note—

Please also see section 98. A condition of an existing company's memorandum of association is to be regarded as a provision of the company's articles.

associated company (有聯繫公司), in relation to a body corporate, means—

- (a) a subsidiary of the body corporate;
- (b) a holding company of the body corporate; or
- (c) a subsidiary of such a holding company;

body corporate (法人團體) —

- (a) includes—
 - (i) a company; and
 - (ii) a company incorporated outside Hong Kong; but
- (b) excludes a corporation sole;

certified public accountant (practising) (執業會計師) has the meaning given by section 2(1) of the Professional Accountants Ordinance (Cap 50);

commencement date (生效日期), in relation to any provision of this Ordinance, means the date on which that provision comes into operation;

Companies Register (公司登記冊) means the records kept under section 27;

company (公司) means—

- (a) a company formed and registered under this Ordinance; or
- (b) an existing company;

company secretary (公司秘書) includes any person occupying the position of company secretary (by whatever name called);

contributory (分擔人), in relation to a company, means a person liable to contribute to the assets of the company in the event of its being wound up;

Court means the Court of First Instance;

court (法院) means a court of competent jurisdiction of the Hong Kong Special Administrative Region and includes a magistrate;

debenture (債權證), in relation to a company, includes debenture stock, bonds and any other debt securities of the company, whether or not constituting a charge on the assets of the company;

director (董事) includes any person occupying the position of director (by whatever name called);

document (文件) includes—

- (a) a summons, notice, order and any other legal process; and
- (b) a register;

electronic record (電子紀錄) means a record generated in digital form by an information system, which can be—

- (a) transmitted within an information system or from one information system to another; and
- (b) stored in an information system or other medium;

existing company (原有公司) means a company formed and registered under a former Companies Ordinance;

financial year (財政年度), in relation to a company, means a financial year of the company determined in accordance with Division 3 of Part 9;

former Companies Ordinance (《舊有公司條例》) means—

- (a) the Companies Ordinance 1865 (1 of 1865);
- (b) the Companies Ordinance 1911 (58 of 1911); or

(c) the predecessor Ordinance;

founder member (創辦成員) —

- (a) in relation to a company formed and registered under this Ordinance, means a person who signs on the company's articles for the purposes of section 67(1)(a); or
- (b) in relation to an existing company, means a person who subscribed to or signed on the company's memorandum of association;

group of companies (公司集團) means any 2 or more bodies corporate one of which is the holding company of the other or others;

identity card (身分證) means an identity card issued under the Registration of Persons Ordinance (Cap 177);

Index of Company Names (《公司名稱索引》) means the index of names kept under section 30;

information system (資訊系統) has the meaning given by section 2(1) of the Electronic Transactions Ordinance (Cap 553);

listed company (上市公司) means a company that has any of its shares listed on a recognized stock market;

listing rules (《上市規則》) means the rules made under section 23 of the Securities and Futures Ordinance (Cap 571) by a recognized exchange company that govern the listing of securities on a stock market it operates;

manager (經理), in relation to a company—

- (a) means a person who performs managerial functions in relation to the company under the directors' immediate authority; but
- (b) excludes—
 - (i) a receiver or manager of the company's property; and
 - (ii) a special manager of the company's estate or business appointed under section 216 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32);

member (成員), in relation to a company, means—

- (a) a founder member of the company; or
- (b) a person who agrees to become a member of the company and whose name is entered, as a member, in the company's register of members;

non-Hong Kong company (非香港公司) means a company incorporated outside Hong Kong that—

- (a) establishes a place of business in Hong Kong on or after the commencement date of Part 16; or
- (b) has established a place of business in Hong Kong before that commencement date and continues to have a place of business in Hong Kong at that commencement date;

officer (高級人員), in relation to a body corporate, includes a director, manager or company secretary of the body corporate;

Official Receiver (破產管理署署長) means the Official Receiver appointed under the Bankruptcy Ordinance (Cap 6);

ordinary resolution (普通決議) —see section 563;

predecessor Ordinance (《前身條例》) means the Companies Ordinance (Cap 32) as in force from time to time before the commencement date* of section 2 of Schedule 9;

recognized exchange company (認可交易所) means a company recognized under section 19(2) of the Securities and Futures Ordinance (Cap 571) as an exchange company for operating a stock market;

recognized stock market (認可證券市場) has the meaning given by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571);

redeemable shares (可贖回股份) means shares that are to be redeemed, or are liable to be redeemed, at the option of the company or the shareholder;

registered non-Hong Kong company (註冊非香港公司) means a non-Hong Kong company that is registered in the Companies Register as a registered non-Hong Kong company;

Registrar (處長) means the Registrar of Companies appointed under section 21(1);

reserve director (備任董事), in relation to a private company, means a person nominated as a reserve director of the company under section 455(1);

Secretary (局長) means the Secretary for Financial Services and the Treasury;

shadow director (幕後董事), in relation to a body corporate, means a person in accordance with whose directions or instructions (excluding advice given in a professional capacity) the directors, or a majority of the directors, of the body corporate are accustomed to act;

share (股份) —

- (a) means a share in a company's share capital; and
- (b) if any of the company's shares is converted into stock, includes stock;

share warrant (股份權證) means a warrant—

- (a) stating that the bearer is entitled to the shares specified in the warrant; and
- (b) enabling the shares to be transferred by delivery of the warrant;

special resolution (特別決議) —see section 564;

specified form (指明格式) means the form specified under section 23;

unlisted company (非上市公司) means a company that does not have any of its shares listed on a recognized stock market;

written resolution (書面決議) —see Subdivision 2 of Division 1 of Part 12.

(2) In this Ordinance—

- (a) a reference to this Ordinance includes any subsidiary legislation made under this Ordinance; and
- (b) a reference to a provision of the predecessor Ordinance, except in Part 21 and Schedule 11, includes the provision, or such part of the provision, having a continuing effect under Schedule 11 or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap 1).

(3) In this Ordinance—

- (a) a reference to a manager of the property of a body corporate includes a manager of part of that property;
- (b) a reference to a receiver of the property of a body corporate includes—
 - (i) a receiver of part of that property; and
 - (ii) a receiver of the income arising from that property or part of that property; and
- (c) a reference to the appointment of a manager or receiver made under powers contained in an instrument includes—
 - (i) an appointment made under powers conferred by an Ordinance; and
 - (ii) an appointment made under powers that, by virtue of an Ordinance, are implied in and have effect as if contained in an instrument.

(4) For the purposes of this Ordinance—

- (a) a document or information is sent or supplied in hard copy form if it is sent or supplied—
 - (i) in paper form; or
 - (ii) in a similar form capable of being read;
- (b) a document or information is sent or supplied in electronic form if it is sent or supplied—
 - (i) by electronic means; or
 - (ii) by any other means while in electronic form; and
- (c) a document or information is sent or supplied by electronic means if it is sent or supplied in the form of an electronic record to an information system.

(5) In subsection (4)—

- (a) a reference to sending a document—
 - (i) includes supplying, delivering, forwarding or producing the document and, in the case of a notice, giving the document; but
 - (ii) excludes serving the document; and
- (b) a reference to supplying information includes sending, delivering, forwarding or producing the information.

(6) A note located in the text of this Ordinance is provided for information only and has no legislative effect.

Note:

* **Commencement date: 3 March 2014.**

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	134	Nature and transferability of shares	L.N. 163 of 2013	03/03/2014
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(1) A share or other interest of a member in a company is personal property.

(2) A share or other interest of a member in a company is transferable in accordance with the company's articles.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	137	Share certificate to be proof of title in the absence of contrary evidence	L.N. 163 of 2013	03/03/2014
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In the absence of evidence to the contrary, a certificate issued by a company specifying any shares held by a member in the company is proof of the member's title to the shares.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	143	Registration of allotment	L.N. 163 of 2013	03/03/2014
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- (1) A company must register an allotment of shares as soon as practicable and in any event within 2 months after the date of the allotment, by entering in the register of its members the information referred to in section 627(2) and (3).
- (2) If a company fails to register an allotment of shares within 2 months after the date of the allotment, the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	144	Issue of share certificate on allotment	L.N. 163 of 2013	03/03/2014
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- (1) Within 2 months after an allotment of shares, a company must complete the certificates for the shares and have the certificates ready for delivery.
- (2) Subsection (1) does not apply if the conditions of issue of the shares provide otherwise.
- (3) If a company contravenes this section, the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	150	Requirement for instrument of transfer	L.N. 163 of 2013	03/03/2014
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- (1) A company must not register a transfer of shares in the company unless a proper instrument of transfer has been delivered to the company.
- (2) Subsection (1) does not affect any power of a company to register as a member a person to whom the right to shares has been transmitted by operation of law.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	151	Registration of transfer or refusal of registration	L.N. 163 of 2013	03/03/2014
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- (1) The transferee or transferor of shares in a company may lodge the transfer with the company.
- (2) Within 2 months after the transfer is lodged, the company must either—
 - (a) register the transfer; or
 - (b) send the transferee and the transferor notice of refusal to register the transfer.
- (3) If a company refuses registration, the transferee or transferor may request a statement of the reasons for the refusal.
- (4) If a request is made under subsection (3), the company must, within 28 days after receiving the request—
 - (a) send the person who made the request a statement of the reasons; or
 - (b) register the transfer.
- (5) If a company contravenes subsection (2) or (4), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	152	Order of Court for registration	L.N. 163 of 2013	03/03/2014
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- (1) If a company refuses to register a transfer, the transferee or the transferor may apply to the Court for an order under this section.
- (2) On an application under subsection (1), the Court may order the company to register the transfer, if the Court is satisfied that the application is well-founded.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	153	Transfer by personal representative	L.N. 163 of 2013	03/03/2014
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A transfer of a share or other interest of a deceased member of a company by his or her personal representative is as valid as if the personal representative had been the registered holder of that share or interest at the time of execution of the instrument of transfer.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	155	Issue of share certificate on transfer	L.N. 163 of 2013	03/03/2014
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- (1) Within the period specified in subsection (2), a company must complete the certificates for any of its shares that are transferred and have the certificates ready for delivery.
- (2) The period is—
 - (a) for a private company, 2 months after the day on which the transfer is lodged with the company;
 - (b) for any other company, 10 business days after the day on which the transfer is lodged with the company.
- (3) Subsection (1) does not apply to a transfer if—
 - (a) the conditions of issue of the shares provide otherwise;
 - (b) stamp duty has not been paid in respect of the transfer;
 - (c) the transfer is invalid; or
 - (d) the company, being entitled to do so, refuses to register the transfer.
- (4) If a company contravenes this section, the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.
- (5) In this section—
business day(營業日) means a day on which a recognized stock market is open for the business of dealing in securities.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	158	Registration or refusal of registration	L.N. 163 of 2013	03/03/2014
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- (1) This section applies if the right to shares is transmitted to a person by operation of law and the person notifies the company in writing that the person wishes to be registered as a member of the company in respect of the shares.
- (2) Within 2 months after receiving the notification, the company must either—
 - (a) register the person as a member of the company in respect of the shares; or
 - (b) send the person notice of refusal of registration.
- (3) If a company refuses registration, the person may request a statement of the reasons for the refusal.
- (4) If a person makes a request under subsection (3), the company must, within 28 days after receiving the request—
 - (a) send the person a statement of the reasons; or
 - (b) register the person as a member of the company in respect of the shares.
- (5) If a company contravenes subsection (2) or (4), the company, and every responsible person of the company,

commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	159	Order of Court for registration	L.N. 163 of 2013	03/03/2014
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- (1) If a company refuses registration under section 158, the person to whom the right to the shares was transmitted may apply to the Court for an order under this section.
- (2) On an application under subsection (1), the Court may order the company to register the person as a member of the company in respect of the shares, if the Court is satisfied that the application is well-founded.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	627	Register of members	L.N. 163 of 2013	03/03/2014
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- (1) A company must keep in the English or Chinese language a register of members.
- (2) A company must enter in the register of members—
 - (a) the names and addresses of its members;
 - (b) the date on which each person is entered in the register as a member; and
 - (c) the date on which any person ceases to be a member.
- (3) In the case of a company having a share capital, the company must enter in the register of members, with the names and addresses of the members, a statement of—
 - (a) the shares held by each member, distinguishing each share by its number so long as the share has a number; and
 - (b) the amount paid or agreed to be considered as paid on the shares of each member.
- (4) A company must enter in the register of members the particulars required under subsections (2) and (3) within 2 months after the company has received notice of the particulars concerned.
- (5) In the case of a person mentioned in subsection (2)(c), all entries in the register relating to that person on the date on which the person ceased to be a member may be destroyed after the end of a period of 10 years from that date.
- (6) A company must retain a copy of any details that were included in the register of members immediately before the commencement date* of subsection (5) until 10 years after the member concerned ceased to be a member.
- (7) If a company contravenes subsection (1), (4) or (6), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.

Note:

* **Commencement date: 3 March 2014.**

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	628	Place where register must be kept	L.N. 163 of 2013	03/03/2014
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- (1) A company must keep its register of members at—
 - (a) the company's registered office; or
 - (b) a prescribed place.
- (2) A company must notify the Registrar of the place at which the register of members is kept. The notice must be in the specified form and delivered to the Registrar for registration within 15 days after the register is first kept at that place.
- (3) A company must notify the Registrar of any change (other than a change of the address of the company's registered office) in the place at which the register of members is kept. The notice must be in the specified form and delivered to the Registrar for registration within 15 days after the change.
- (4) Subsection (2) does not require a company to notify the Registrar of the place at which the register of members is kept—

- (a) if, in the case of a register that came into existence on or after the commencement date* of this section, it has at all times been kept at the company's registered office; or
- (b) if—
 - (i) immediately before that commencement date*, the company kept a register for the purposes of section 95 of the predecessor Ordinance; and
 - (ii) on and after that commencement date*, that register is kept as a register of members for the purposes of section 627 at the place at which it was kept immediately before that commencement date*.
- (5) If a company contravenes subsection (1), (2) or (3), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.

Note:

* **Commencement date: 3 March 2014.**

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
Section:	629	Statement that company has only one member	L.N. 163 of 2013	03/03/2014

- (1) If, after a person ceases to be a member of a company, the number of members of the company falls to one, the company must, within 15 days after the date on which the cessation is entered in its register of members under section 627(2)(c), enter in the register—
 - (a) a statement that it has only one member; and
 - (b) the date on which it became a company having only one member.
- (2) If the membership of a company increases from one to 2 or more members, the company must, within 15 days after the date on which the particulars of the new member are entered in its register of members under section 627(2), enter in the register—
 - (a) a statement that it has ceased to have only one member; and
 - (b) the date on which that event occurred.
- (3) If a company contravenes subsection (1) or (2), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
Section:	630	Index of members	L.N. 163 of 2013	03/03/2014

- (1) A company having more than 50 members must keep an index of the names of the members of the company, unless its register of members is in a form that constitutes in itself an index.
- (2) The company must make any necessary alteration in the index within 15 days after the date on which any alteration is made in its register of members.
- (3) The company must ensure that the index contains, in respect of each member, a sufficient indication to enable the account of that member in the register to be readily found.
- (4) The company must keep the index at the same place as its register of members at all times.
- (5) If a company contravenes subsection (1), (2), (3) or (4), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
Section:	631	Right to inspect and request copy	L.N. 163 of 2013	03/03/2014

- (1) A member of a company is entitled, on request made in the prescribed manner and without charge, to inspect the register of members of the company, and the index of members' names, in accordance with regulations made under section 657.
- (2) Any other person is entitled, on request made in the prescribed manner and on payment of a prescribed fee, to

inspect the register and index in accordance with regulations made under section 657.

- (3) A person is entitled, on request and on payment of a prescribed fee, to be provided with a copy of the register or index, or any part of it, in accordance with regulations made under section 657.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	632	Power to close register of members	L.N. 163 of 2013	03/03/2014
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- (1) A company may, on giving notice in accordance with subsection (2), close its register of members, or the part of it relating to members holding shares of any class, for any period or periods not exceeding in the whole 30 days in each year.
- (2) A notice for the purposes of subsection (1)—
 - (a) if the company is a listed company, must be given—
 - (i) in accordance with the listing rules applicable to the stock market; or
 - (ii) by advertisement in a newspaper circulating generally in Hong Kong; and
 - (b) in the case of any other company, must be given by advertisement in a newspaper circulating generally in Hong Kong.
- (3) The period of 30 days mentioned in subsection (1) may be extended in respect of any year by a resolution of the company's members passed in that year.
- (4) The period of 30 days mentioned in subsection (1) must not be extended for a further period or periods exceeding 30 days in the whole in any year.
- (5) A company must, on demand, provide any person seeking to inspect a register or part of a register that is closed under this section with a certificate signed by the company secretary of the company stating the period for which, and by whose authority, it is closed.
- (6) If a company contravenes subsection (5), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 3.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	633	Power of Court to rectify register	L.N. 163 of 2013	03/03/2014
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- (1) If—
 - (a) the name of any person is, without sufficient cause, entered in or omitted from the register of members of a company; or
 - (b) default is made or unnecessary delay takes place in entering in the register the fact of any person having ceased to be a member,
 a person aggrieved, or any member of the company, or the company, may apply to the Court for rectification of the register.
- (2) If an application is made under subsection (1), the Court may—
 - (a) refuse the application; or
 - (b) subject to section 167, order rectification of the register and payment by the company of any damages sustained by any party aggrieved.
- (3) Subject to section 167, on an application under subsection (1), the Court—
 - (a) may decide any question relating to the title of any person who is a party to the application to have the person's name entered in or omitted from the register, whether the question arises—
 - (i) between members or alleged members; or
 - (ii) between members or alleged members on the one hand and the company on the other hand; and
 - (b) generally may decide any question necessary or expedient to be decided for rectification of the register.
- (4) In the case of a company required by this Ordinance to deliver particulars relating to its members to the Registrar for registration, the Court, when making an order for rectification of the register, must by its order direct notice of the rectification to be given to the Registrar.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	635	Register to be proof in the absence of contrary evidence	L.N. 163 of 2013	03/03/2014
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In the absence of evidence to the contrary, the register of members is proof of any matters that are by this Ordinance required or authorized to be inserted in it.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	637	Keeping of branch register	L.N. 163 of 2013	03/03/2014
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- (1) A branch register must be kept in the same manner in which the company's register of members (*the principal register*) is by this Ordinance required to be kept.
- (2) A company that keeps a branch register may close it in the same manner in which the principal register may be closed under section 632 except that the advertisement mentioned in that section must be inserted in a newspaper circulating generally in the place in which the branch register is kept.
- (3) A company that keeps a branch register—
 - (a) must cause a duplicate of it to be kept at the place at which the company's principal register is kept; and
 - (b) must, within 15 days after an entry is made in the branch register—
 - (i) transmit a copy of the entry to its registered office; and
 - (ii) update the duplicate of the branch register.
- (4) A duplicate of a branch register is to be regarded for all the purposes of this Ordinance as part of the principal register.
- (5) Subject to the provisions of this Ordinance, a company may by its articles make any provision that it thinks fit respecting the keeping of branch registers.
- (6) If a company contravenes subsection (3), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	654	Meaning of company records	L.N. 163 of 2013	03/03/2014
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In this Division—

company records(公司紀錄) means any register, index, agreement, memorandum, minutes or other document required by this Ordinance to be kept by a company, but does not include accounting records.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	655	Form of company records	L.N. 163 of 2013	03/03/2014
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- (1) A company must adequately record for future reference the information required to be contained in any company records.
- (2) Subject to subsection (1), company records may be—
 - (a) kept in hard copy form or in electronic form; and
 - (b) arranged in the manner that the directors of the company think fit.
- (3) If the records are kept in electronic form, the company must ensure that they are capable of being reproduced in hard copy form.
- (4) If any company records required by this Ordinance to be kept by a company are kept by the company by recording the information in question in electronic form, any duty imposed on the company under this Ordinance to allow inspection of the company records is to be regarded as a duty to allow inspection of—
 - (a) a reproduction of the recording, or the relevant part of the recording, in hard copy form; or
 - (b) if requested by the person inspecting the recording, the recording, or the relevant part of the recording, by electronic means.
- (5) If a company contravenes subsection (1), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 3 and, in the case of a continuing offence, to a further fine of \$300

for each day during which the offence continues.

- (6) If a company contravenes subsection (3), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 3.

(7) In this section—

in electronic form(電子形式) means in the form of an electronic record;

in hard copy form(印本形式) means in a paper form or similar form capable of being read.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
Section:	696	Obligations of offeror with right to buy out minority shareholders	L.N. 163 of 2013	03/03/2014

- (1) If, by virtue of section 695(2), an offeror is entitled and bound to acquire any shares in a company, the offeror must comply with subsection (3) within 2 months after the date of the notice.
- (2) If an application for the purposes of section 695(3) is pending at the end of those 2 months, the offeror must comply with subsection (3) as soon as practicable after the application has been disposed of, unless the Court orders that the offeror is not entitled and bound to acquire the shares.
- (3) The offeror—
- (a) must send to the company—
 - (i) a copy of the notice under section 693; and
 - (ii) an instrument of transfer of the shares to which the notice relates, executed on behalf of the holder of the shares by a person appointed by the offeror; and
 - (b) must pay or transfer to the company the consideration for the shares to which the notice relates.
- (4) Subsection (3)(a)(ii) does not require the offeror to send to the company an instrument of transfer of any shares for which a share warrant is for the time being outstanding.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
Section:	908	Paperless holding and transfer of shares and debentures		

Remarks:

Not yet in operation

Schedule 8, which contains amendments relating to paperless holding and transfer of shares and debentures, has effect.

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
Schedule:	8	Amendments relating to Paperless Holding and Transfer of Shares and Debentures		

Remarks:

Not yet in operation

[section 908]

1. This Ordinance amended

This Ordinance is amended as set out in sections 2 to 14 of this Schedule.

2. Section 2 amended (Interpretation)

Section 2(1)—

Add in alphabetical order

“**prescribed securities**(訂明證券) has the meaning given by section 397(5) of the Securities and Futures

Ordinance (Cap 571);
Scripless Rules(《無紙化規則》) means rules made under section 397(1A) of the Securities and Futures Ordinance (Cap 571);”.

3. Section 134 amended (Nature and transferability of shares)

Section 134(2), after “articles”—

Add

“subject, for shares or other interests that are prescribed securities, to the Scripless Rules”.

4. Section 137 amended (Share certificate to be proof of title in the absence of contrary evidence)

(1) Section 137—

Renumber the section as section 137(1).

(2) After section 137(1)—

Add

“(2) Subsection (1) does not affect section 635.”.

5. Section 144 amended (Issue of share certificate on allotment)

Section 144—

Repeal subsection (2)

Substitute

“(2) Subsection (1) does not apply if—

- (a) the shares are prescribed securities that are allotted in accordance with the Scripless Rules; or
- (b) the shares are not prescribed securities and the conditions of issue of the shares provide otherwise.”.

6. Section 150 amended (Requirement for instrument of transfer)

After section 150(2)—

Add

“(3) Subsection (1) does not apply to a transfer, made in accordance with the Scripless Rules, of shares that are prescribed securities.”.

7. Section 153 amended (Transfer by personal representative)

Section 153—

Repeal

“execution of the instrument of transfer”

Substitute

“the transfer”.

8. Section 155 amended (Issue of share certificate on transfer)

Section 155(3)—

Repeal paragraph (a)

Substitute

“(a) either—

- (i) the shares are prescribed securities that are transferred in accordance with the Scripless Rules; or
- (ii) the shares are not prescribed securities and the conditions of issue of the shares provide otherwise;”.

9. Section 318 amended (Issue of debenture or certificate for debenture stock on allotment)

Section 318—

Repeal subsection (2)

Substitute

“(2) Subsection (1) does not apply if—

- (a) the debentures or debenture stock are prescribed securities that are allotted in accordance with the Scripless Rules; or
- (b) the debentures or debenture stock are not prescribed securities and the conditions of issue of the debentures or debenture stock provide otherwise.”.

10. Section 320 amended (Requirement for instrument of transfer)

After section 320(2)—

Add

“(3) Subsection (1) does not apply to a transfer, made in accordance with the Scripless Rules, of debentures or debenture stock that are prescribed securities.”.

11. Section 323 amended (Issue of debenture or certificate for debenture stock on transfer)

Section 323(3)—

Repeal paragraph (a)

Substitute

“(a) either—

- (i) the debentures or debenture stock are prescribed securities that are transferred in accordance with the Scripless Rules; or
- (ii) the debentures or debenture stock are not prescribed securities and the conditions of issue of the debentures or debenture stock provide otherwise;”.

12. Section 627A added

After section 627—

Add

“627A. Additional register entries for prescribed securities

- (1) If a company’s share capital is divided into different classes of shares and any of those shares are prescribed securities, the company must enter in the register of its members—
 - (a) a statement that its share capital is divided into different classes of shares;
 - (b) the voting rights attached to the shares of each class;
 - (c) in relation to a class of shares the holders of which are not entitled to vote at general meetings of the company, the words “non voting” or the Chinese characters “無表決權”; and
 - (d) any other matters that are required by the Scripless Rules to be entered in the register.
- (2) Subsection (1)(c) does not apply to shares that are described as preference shares or preferred shares.
- (3) If a company contravenes subsection (1), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.”.

13. Section 635 amended (Register to be proof in the absence of contrary evidence)

(1) Section 635—

Renumber the section as section 635(1).

(2) After section 635(1)—

Add

“(2) Without limiting subsection (1), in the absence of evidence to the contrary, an entry in the register of members recording a person as holding any share is proof of the person’s title to the share.”.

14. Section 696 amended (Obligations of offeror with right to buy out minority shareholders)

Section 696—

Repeal subsection (4)

Substitute

“(4) Subsection (3)(a)(ii) does not require the offeror to send to the company an instrument of transfer of—

- (a) any shares for which a share warrant is for the time being outstanding; or
- (b) any shares that are prescribed securities, if the transfer of the shares is made in accordance with the Scripless Rules.”.

Chapter:	32H	COMPANIES (WINDING-UP) RULES	Gazette Number	Version Date
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Appendix:		APPENDIX	E.R. 1 of 2014	04/03/2014
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FORMS

FORM 1

[rule 7]

FORM OF SUMMONS (*General*)

(*Title*)

Let ^(a) attend at
on the day of 19 , at o'clock in the
noon on the hearing of an application of ^(b)
for an order that ^(c)
Dated the day of 19 ,
This summons was taken out by
of
Solicitors for
To

(a) Name of Respondent.

(b) Name and description of applicant.

(c) State object of application.

NOTE—If you do not attend, either in person or by your solicitor, at the time and place above-mentioned, such order will be made, and proceedings taken as the court may think just and expedient.

(L.N. 50 of 1964)

FORM 2

[rule 22]

PETITION

(*Title*)

To the High Court of Hong Kong.

The humble petition of ^(a) follows- showeth as (a) Insert full name, title, etc., of petitioner.

1. The called the company), was in the month Company, Limited (hereinafter

of _____, incorporated under the *Companies Ordinance 1865 (1 of 1865)/*Companies Ordinance 1911 (58 of 1911)/*Companies Ordinance (Chapter 32)/*Companies Ordinance (Cap 622). (*delete the inapplicable words).

(b) State the full address of the registered office so as sufficiently to show where it is situate.

2. The registered office of the company is at ^(b)

3. The share capital of the company is divided into _____ shares. The amount of the capital paid up or credited as paid up is \$

4. The objects for which the company was established are as follows-
To

and other objects set forth in the articles of association thereof.

[Here set out in paragraphs the facts on which the petitioner relies, and conclude as follows]:-

Your petitioner therefore humbly prays as follows-

(1) That the _____ Company, Limited, may be wound up by the court under the provisions of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32).

(2) Or that such other order may be made in the premises as shall be just.

NOTE-(d) It is intended to serve this petition on.

(d) This note will be unnecessary if the Company is petitioner.

(L.N. 201 of 1984; 25 of 1998 s. 2; 28 of 2012 ss. 912 & 920; E.R. 1 of 2014)

FORM 3

[rule 22]

PETITION BY UNPAID CREDITOR ON SIMPLE CONTRACT

(Title)

Paragraphs 1, 2, 3, and 4 as in Form 2.

5. The company is indebted to your petitioner in the sum of \$
for ^(a)

6. Your petitioner has made application to the company for payment of his debt, but the company has failed and neglected to pay the same or any part thereof.

7. The company is [insolvent and] unable to pay its debts.

8. In the circumstances it is just and equitable that the company should be wound up.

Your petitioner, therefore, &c. [as in Form 2].

(a) State consideration for the debt, with particulars so as to establish that the debt claimed is due.

FORM 3A

(Repealed 28 of 2012 ss. 912 & 920)

FORM 4

[rule 24]

ADVERTISEMENT OF PETITION

(Title)

Notice is hereby given that a petition for the winding up of the above-named company by the High Court of Hong Kong was, on the _____ day of _____, 19____, presented to the said court by the said company [*or, as the case may be*]. And that said petition is directed to be heard before the court at _____ .m. on the day of _____, 19____; and any creditor or contributory of the said company desirous to support or oppose the making of an order on the said petition may appear at the time of hearing by himself or his counsel for that purpose; and a copy of the petition will be furnished to any creditor or contributory of the said company requiring the same by the undersigned on payment of the regulated charge for the same.

Signed ^(b) [Name] ^(c)
[Address] ^(c)

(b) To be signed by the solicitor to the petitioner or by the petitioner if he has no solicitor.
(c) The name and address of the petitioner and the solicitor, if any, to the petitioner should be stated.

NOTE-Any person who intends to appear on the hearing of the said petition must serve on or send by post to the above-named, notice in writing of his intention so to do. The notice must state the name and address of the person, or, if a firm, the name and address of the firm, and must be signed by the person or firm, or his or their solicitor (if any), and must be served, or if posted, must be sent by post in sufficient time to reach the above-named not later than 6 o'clock in the afternoon of the _____ of _____ 19____.

(L.N. 201 of 1984; 25 of 1998 s. 2; 46 of 2000 s. 40)

FORM 4A

(Repealed 28 of 2012 ss. 912 & 920)

FORM 5

[rule 25]

AFFIDAVIT OF SERVICE OF PETITION ON MEMBERS, OFFICERS, OR SERVANTS, &C.

(Title)

In the matter of a petition dated

I,

of _____, make oath and say-

1. [*In the case of service of petition on a company by leaving it with a member, officer, or servant at the registered office, or if no registered office at the principal or last known principal place of business of the company.*]

That I did on _____ day, the _____ day of _____, 19____, serve the above-named company with the above-mentioned petition by delivering to and leaving with [name and description] a member (or officer) (or servant) of the said company a copy of the above-mentioned petition, duly sealed with the seal of the court, at [office or place of business as aforesaid], before the hour of _____ in the _____ noon.

2. [*In the case of no member, officer, or servant of the company being found at the registered office or place of business.*]

That I did on _____ day, the _____ day of _____, 19____, having failed to find any member, officer, or servant of the above-named company at [here state registered office or place of business], leave there a copy of the above-mentioned petition, duly sealed with the seal of the court, before the hour

of _____ in the _____ noon [*add with whom such sealed copy was left, or where, e.g. affixed to door of offices, or placed in letter box, or otherwise*].

3. [*In the case of directions by the court as to the member, or members, officer, or servant of the company to be served.*]

That I did on _____ day, the _____ day of _____, 19_____, serve [*name or names and description*] with a copy of the above-mentioned petition, duly sealed with the seal of the court, by delivering the same personally to the said _____, at [*place*] before the hour of _____ in the _____ noon.

4. The said petition is now produced and shown to me, marked "A".

Sworn at, &c.

FORM 6

[rule 25]

AFFIDAVIT OF SERVICE OF PETITION ON LIQUIDATOR

(*Title*)

In the matter of a petition, dated _____, for winding up the above company [by] *or* [under the supervision of] the court [*as the case may be*].

I, _____, of _____, make oath and say-

That I did on _____ day, the _____ day of _____, 19_____, serve [*name and description*] the liquidator of the above-named company, with a copy of the above-mentioned petition, duly sealed with seal of the court, by delivering the same personally to the said _____ at [*place*], before the hour of _____ in the _____ noon.

The said petition is now produced and shown to me, marked "A".

Sworn at, &c.

FORM 7

[rule 26]

AFFIDAVIT VERIFYING PETITION

(*Title*)

I, A.B., of &c., make oath and say, that such of the statements in the petition now produced and shown to me, and marked with the letter "A", as relate to ^(a) my own acts and deeds are true, and such of the said statements as relate to the acts and deeds of any other person or persons I believe to be true.

Sworn, &c.

(a) If the petition is by a firm, insert "the acts and deeds of my said firm".

FORM 8

[rule 26]

AFFIDAVIT VERIFYING PETITION OF A LIMITED COMPANY

(*Title*)

I, A.B., of, &c., make oath and say as follows-

1. I am (a director) (the company secretary) of Company, Limited, the petitioner in the above matter, and am duly authorized by the said petitioner to make this affidavit on its behalf.

2. That such of the statements in the petition now produced and shown to me marked with the letter "A", as relate to the acts and deeds of the said petitioner or to my own acts and deeds, are true, and such of the statements in the said petition as relate to the acts and deeds of any other corporation, person or persons, I believe to be true.

Sworn, &c.

(28 of 2012 ss. 912 & 920)

FORM 9

[rule 28]

ORDER APPOINTING A PROVISIONAL LIQUIDATOR AFTER
PRESENTATION OF PETITION, AND BEFORE ORDER TO WIND UP

of the day
, 19 .

(Title)

Upon the application, &c., and upon reading, &c., the court doth hereby appoint the Official Receiver (or as may be) to be provisional liquidator of the above-named company. And the court doth hereby limit and restrict the powers of the said provisional liquidator to the following acts, that is to say [*describe the acts which the provisional liquidator is to be authorized to do and the property of which he is to take possession*].

NOTE-It will be the duty of the person who is at the time company secretary or chief officer of the company and of such of the persons who are liable to make out or concur in making out the company's statement of affairs as the Official Receiver or provisional liquidator may require, to attend on the Official Receiver or provisional liquidator at such time and place as he may appoint and to give him all information he may require.

(46 of 2000 s. 40; 28 of 2012 ss. 912 & 920)

FORM 10

[rule 30]

NOTICE OF INTENTION TO APPEAR ON PETITION

(Title)

Take notice that A.B., of ^(a) a creditor for \$ (a) State full name, of (or contributory holding ^(b) shares in) the above or if a firm, the company intends to appear on the hearing of the petition advertised to be heard on the name of the firm day of , 19 , and to support (or oppose) such and address. petition. (b) State number and class of shares held.

(Signed) ^(c)

(c) To be signed by the person or his solicitor or agent.

[Address]

To

FORM 11

[rule 31]

LIST OF PARTIES ATTENDING THE HEARING OF A PETITION

(Title)

The following are the names of those who have given notice of their intention to attend the hearing of the petition herein, on the _____ day of _____, 19____.

Name	Address	Name and address of solicitor of party who has given notice	Creditors. Amount of debt	Contributories. Number of shares	Opposing	Supporting

FORM 12

[rule 34]

NOTIFICATION TO OFFICIAL RECEIVER OF WINDING-UP ORDER

(Title)

To the Official Receiver

(Address)

Order pronounced this day by
[or, as the case may be] for winding up the under-mentioned company under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32).

Name of company	Registered office of company	Petitioner's solicitor	Date of presentation of petition

(28 of 2012 ss. 912 & 920)

FORM 13

[rule 34]

NOTIFICATION TO OFFICIAL RECEIVER OF ORDER PRONOUNCED
FOR APPOINTMENT OF PROVISIONAL LIQUIDATOR PRIOR TO
WINDING-UP ORDER BEING MADE

(Title)

To the Official Receiver

(Address)

Order pronounced this day by
[or, as the case may be] for the appointment of the Official Receiver (or, as the case may be, the name, address and description of the person appointed) as provisional liquidator prior to any winding-up order being made.

Name of company	Registered office of company	Petitioner's solicitor	Date of presentation of petition

FORM 14

[rule 35]

ORDER FOR WINDING UP BY THE COURT

day of , 19 .

(Title)

Upon the petition of the above-named company (or A.B., of &c., a creditor (or contributory) of the above-named company), on the day of , 19 , preferred unto the court, and upon hearing for the petitioner, and for and upon reading the said petition, an affidavit of (the said petitioner), filed, &c., verifying the said petition, an affidavit of L.M., filed the day of , 19 , the Gazette of the day of , 19 , the newspaper of the day of (enter any other papers), each containing an advertisement of the said petition (enter any other evidence), this court doth order that the said company be wound up by this court under the provisions of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32).

And it is ordered that the costs of

of the said petition be

taxed and paid out of the assets of the said company.

NOTE-It will be the duty of the company secretary and of every officer of the company and of such of the persons who are liable to make out or concur in making out the company's statement of affairs, as the Official Receiver or provisional liquidator may require, to attend on the Official Receiver or provisional liquidator at such time and place as he may appoint and to give him all information he may require.

(L.N. 201 of 1984; 46 of 2000 s. 40; 28 of 2012 ss. 912 & 920)

FORM 15
(Repealed L.N. 201 of 1984)

FORM 16

[rule 36(1)]

NOTICE OF ORDER TO WIND UP (FOR NEWSPAPER)

COMPANIES (WINDING UP AND MISCELLANEOUS
PROVISIONS) ORDINANCE
(Chapter 32)

In the matter
of
Limited.

Winding-up order
made
19 .

Date and place of first meetings-

Creditors
, 19 , at

Contributories
, 19 , at

Official Receiver and
Provisional

Liq
uid
ato
r

(28 of 2012 ss. 912 & 920)

FORM 17

[rule 38]

AFFIDAVIT BY SPECIAL MANAGER VERIFYING ACCOUNT

(Title)

I,

, of

make oath and say as follows-

1. The account hereunto annexed, marked with the letter "A", produced and shown to me at the time of swearing this my affidavit, and purporting to be my account as special manager of the estate or business of the above-named company, contains a true account of all and every sums and sum of money received by me or by any other person or persons by my order or to my knowledge or belief for my use on account or in respect of the said estate or business.

2. The several sums of money mentioned in the said account hereby verified to have been paid or allowed have been actually and truly so paid and allowed for the several purposes in the said account mentioned.

3. The said account is just and true in all and every items and particulars therein contained, according to the best of my knowledge and belief.

Sworn, &c.

(L.N. 587 of 1995)

FORM 18

[rule 109]

NOTICE TO CREDITORS OF FIRST MEETING

(Title)

(Under the order for winding up the above-named company, dated _____ the day of _____, 19____.)

Notice is hereby given that the first meeting of creditors in the above matter will be held at on the _____ day of _____, 19____, at o'clock in the _____ noon.

To entitle you to vote thereat your proof must be lodged with me not later than o'clock on the _____ day of _____, 19____.

Forms of proof and of general and special proxies are enclosed herewith. Proxies to be used at the meeting must be lodged with me not later than _____ o'clock on the day of _____, 19____.

Address

(The statement of the company's affairs ^(a)

) (a) Here insert "has not been lodged" or "has been lodged, and summary is enclosed".

Note

At the first meetings of the creditors and contributories they may amongst other things-

1. *By resolution determine whether or not an application is to be made to the court to appoint a liquidator in place of the provisional liquidator.*

2. *By resolution determine whether or not an application shall be made to the court for the appointment of a committee of inspection to act with the liquidator, and who are to be the members of the committee if appointed.*

(46 of 2000 s. 40)

FORM 19

[rule 109]

NOTICE TO CONTRIBUTORIES OF FIRST MEETING

(Title)

Notice is hereby given that the first meeting of the contributories in the above matter will be held at _____ on the _____ day of _____, 19____, at _____ o'clock in the _____ noon.

Forms of general and special proxies are enclosed herewith. Proxies to be used at the meeting must be lodged with me not later than _____ o'clock on the _____ day of _____, 19____.

Dated this _____ day of _____, 19____.

Address

(The company's statement of affairs ^(a)

). (a) Here insert "has not been lodged" or "has been lodged, and summary is enclosed".

Note

At the first meetings of creditors and contributories they may amongst other things-

1. *By resolution determine whether or not an application shall be made to the court to appoint a liquidator in place of the provisional liquidator.*

2. *By resolution determine whether or not an application shall be made to the court for the appointment of a committee of inspection to act with the liquidator, and who are to be the members of the committee if appointed.*

(46 of 2000 s. 40)

FORM 20

[rule 110]

NOTICE TO DIRECTORS AND OFFICERS OF COMPANY TO ATTEND
FIRST MEETING OF CREDITORS OR CONTRIBUTORIES

(Title)

Take notice that the first meeting of creditors [or contributories] will be held on the _____ day of _____, 19____, at _____ o'clock at ^(a) _____ and that you are required to attend thereat, and give such information as the meeting may require.

(a) Here insert place where meeting will be held.

Dated this _____ day of _____, 19____. To ^(b) _____

(b) Insert name of person required to attend.

NOTE-The failure of any director or officer to attend will be reported to the court.

(46 of 2000 s. 40)

FORM 21

[rule 123(2)]

MEMORANDUM OF PROCEEDINGS AT ADJOURNED FIRST MEETING

(No quorum)

(Title)

Before _____ at _____ on the _____ day of _____, 19____, at _____ o'clock.

(a) Insert "creditors" or

Memorandum-The adjourned meeting of ^(a) "contributories", as in the above matter was held at the time and place above-mentioned; but it appearing that there was the case may be. not a quorum of ^(a) qualified to vote present or represented, no resolution was passed, and the meeting was not further adjourned.

hairman C

FORM 22

[rule 130]

LIST OF CREDITORS ^(a) PRESENT TO BE USED AT EVERY MEETING

(a) "or contributories".

(Title)

Meeting held at this day of , 19 .

Number	Names of creditors ^(a) present or represented	Amount of proof ^(b)		(b) In case of contributories insert "number of shares" and "number of votes according to the regulations of the company".
1		\$	¢	
2				
3				
4				
5				
6				
7				
7	Total number of creditors ^(a) present or represented.			

FORM 23

Page 1

Rule 39 of the Companies (Winding-up) Rules (Cap 32 sub. leg. H)

IN THE HIGH COURT OF HONG KONG

COMPANIES (WINDING-UP) NO. of 19

In the matter of _____

and

In the matter of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32).

STATEMENT OF AFFAIRS on the _____ day of _____ 19 _____, the date of the Winding-up Order (or such other date as the liquidator has for special reasons directed).

Notes

- (1) Please complete this Statement of Affairs and such of the attached lists A, B, C, D, E, F, G, H, I and J as are applicable. If there is a dispute about any amount due to or by the wound-up company please specify this in the relevant list and supply details in a separate schedule which should be signed and attached as part of the Statement of Affairs.
- (2) Please do not insert figures in the shaded areas.

I-AS REGARDS CREDITORS

List Reference	Particulars	Amount \$	Amount \$
	ASSETS		
A	(1) Various assets		
B	(2) Debts due to the company		
C	(3) Excess value of assets pledged as security to creditors fully secured		
D	(4) Unpaid calls		
	(5) Total Assets , i.e. total of items (1) to (4) above		
	LIABILITIES		
E	(6) Claims and amounts due to employees and Government departments		
F	(7) Debenture holders		
	(8) Subtotal , i.e. total of items (6) and (7) above		
C	(9) Secured creditors (net of security)-i.e. after deducting the amount of the security		
G	(10) Unsecured creditors and other liabilities		
H	(11) Contingent liabilities		
	(12) Subtotal , i.e. total of items (9) to (11) above		
	(13) Total Liabilities , i.e. total of items (8) and (12) above		
	(14) Estimated surplus/(deficiency) subject to cost of liquidation carried forward to item (15) on page 2 , i.e. total assets as in item (5) less total liabilities as in item (13).		\$

Page 2

II-AS REGARDS CONTRIBUTORIES

List Reference	Particulars	Amount \$	Amount \$
	(15) Estimated surplus/(deficiency) brought forward from page 1		
	CAPITAL ISSUED AND ALLOTTED , viz:-		
	(16) Ordinary Shares of \$ _____ each at nominal value (only applicable to shares with nominal value)		
I	(17) No. of Ordinary Shares issued as fully paid _____ (specify no. of shares)		
I	(18) No. of Ordinary Shares issued as partially paid, i.e. amount called up for _____ shares at \$ _____ (specify no. of shares) per share		
	(19) Total for ordinary share capital fully paid and called up , i.e. total of items (17) and (18) above		
I	(20) Any other type of shares or capital issued (give particulars)		

	(21) Subtotal for item (20)		
	(22) Total of items (19) and (21) above		
	(23) TOTAL SURPLUS/(DEFICIENCY) AS PER ITEM (15) OF THE DEFICIENCY ACCOUNT IN LIST J i.e. item (15) less item (22)	\$	

AFFIDAVIT OR AFFIRMATION

- Notes: (1) The Commissioner is particularly requested, before swearing the Affidavit or making the Affirmation, to ascertain that the full name, address and description of the Deponent are stated, and to initial all crossings-out or other alterations on the printed form. A deficiency in the Affidavit/Affirmation in any of the above respects will entail its refusal by the court, and will necessitate it being re-sworn/re-affirmed.
- (2) Where the liquidator has directed any date other than the date of the winding-up order, substitute such other date.
- (3) An asterisk (*) signifies that the inapplicable words should be deleted.

I/We, _____, of _____, * _____ make oath and say _____ that the
 * _____ solemnly and sincerely affirm
 foregoing Statement and the several Lists hereunto annexed marked _____ are, to the best of
 my/our knowledge and belief, a full, true, and complete statement of affairs of the above-named Company, on the
 _____ day of _____ 19 _____, the date of the Winding-up Order (see Note 2).

*Sworn at/*Affirmed at _____ in Hong Kong.
 this _____ day of _____ 19 _____.

Before me.

A Commissioner, etc.

 (Signature)

LIST A

VARIOUS ASSETS

Full particulars of every description of assets not included in any other lists should be specified in this list. If the space allotted to items (a) to (h) below is not adequate, please provide the requisite information by attaching additional schedule(s) and completing item (j) below.

Particulars	Estimated to produce \$
(a) Cash at bank (Please specify the name(s) of the bank(s) and all account numbers)	
(b) Cash in hand	
(c) Stock in trade	Cost \$

(d) Plant and machinery	_____	Cost \$ _____	_____
(e) Investment in stocks or shares, etc. (Please provide details)	_____	Cost \$ _____	_____
	_____		_____
	_____		_____
(f) Land and buildings	_____	Cost \$ _____	_____
(g) Security held by the company in respect of loans granted to others (Please provide details)	_____		_____
	_____		_____
(h) Any other assets (Please provide details)	_____		_____
	_____		_____
(i) Total (show the total under "Assets" on page 1 of the Statement of Affairs)			\$ _____

(j) * _____ additional schedule(s) are attached/*No additional schedule(s) are attached.
(specify no.)

Dated this _____ day of _____ 19____.

(Signature)

(*delete the inapplicable words)

Page 1

LIST B

DEBTS DUE TO THE COMPANY

Show the total of column (vi) of \$ under "Assets" on page 1 of the Statement of Affairs

(i) No.	(ii) Name of debtor	(iii) Address	(iv) Amount of debt \$	(v) Date when contracted	(vi) Estimated to produce \$	(vii) Folio of ledger or other book where particulars to be found	(viii) Nature of debt and particulars of any securities held for debt
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.

6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
Total amount owed to creditors, i.e. total of column (iv)				Total value of security, i.e. total of column (viii)					
Show the total of column (ix) under "Assets" at item (3) on page 1 of the Statement of Affairs									
Show the total of column (x) under "Liabilities" at item (9) on page 1 of the Statement of Affairs									

Dated this _____ day of _____ 19____.

(Signature)

Note: If the amount due to the fully-secured creditor (as stated in column (iv) above) is the same as the estimated value of security (as stated in column (viii) above), please specify a "Nil" amount in columns (ix) and (x). If any estimated surplus from security as reflected in column (ix) above is further pledged to any other creditor as partial security, that surplus should be deleted from column (ix) and shown in column (viii) for that other creditor instead. Such surplus should then be deducted from the relevant amount due to that other creditor before extending the amount to either column (ix) or (x), whichever is appropriate.

LIST D

UNPAID CALLS (i.e. amount called up but not yet paid by the shareholder)

(i) No.	(ii) No. in share register	(iii) Name of Shareholder	(iv) Address	(v) No. of shares held	(vi) Amount of call per share unpaid \$	(vii) Total amount due i.e. (vi) multiplied by (v) \$	(viii) Estimated to realize \$
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
Totals (show the total of column (viii) under "Assets" on page 1 of the Statement of Affairs)						\$	

Dated this _____ day of _____ 19____. (Signature)

LIST E

CLAIMS AND AMOUNTS DUE TO EMPLOYEES AND GOVERNMENT

DEPARTMENTS (e.g. Wages, Rates, Taxes, etc.)

(i) No.	(ii) Name of creditor or claimant	(iii) Address	(iv) Nature of claim	(v) Period during which claim accrued	(vi) Due date for payment	(vii) Amount of claim \$
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
Show the total of column (vii) under "Liabilities" on page 1 of the Statement of Affairs						\$

Dated this day of 19 . (Signature)

LIST F

DEBENTURE HOLDERS (excluding Secured Creditors for whom List C should be used)

Should there be more than one issue of debentures, separate list must be provided of holders of each issue of debenture.

(i) No.	(ii) Date of debenture	(iii) Name of debenture holder	(iv) Address	(v) Amount \$	(vi) Description of assets over which security extends
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
Show the total of column (v) under "Liabilities" on page 1 of the Statement of Affairs				\$	

Dated this day of 19 . (Signature)

LIST G

UNSECURED CREDITORS AND OTHER LIABILITIES

Show the total of column (iv) of \$ under "Liabilities" on page 1 of the Statement of Affairs

(i) No.	(ii) Name of creditor or claimant	(iii) Address	(iv) Amount \$	(v) Date when contracted	(vi) Consideration and the nature of liability
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					

Dated this day of 19 . (Signature)

Notes: (1) If any creditor is also indebted to the company, please specify in column (iii) both the amount due to the creditor and the amount owed by the creditor. The net amount due by the company to the creditors should be inserted in column (iv). If however, the amount owed to the company by the "creditor" is more than the amount that the company owes the creditor, do not insert any amount in this list but use **List B** for the purpose.

(2) The particulars of any bills of exchange and promissory notes held by a creditor should be inserted immediately below the name of such creditor.

(3) The names of any creditors who are also contributors, or alleged to be contributors, of the company must be shown separately and described as such at the end of the list.

LIST G (CONTINUED)

UNSECURED CREDITORS AND OTHER LIABILITIES

[illegible]

Dated this day of

19 .

(Signature)

LIST H

CONTINGENT LIABILITIES

(i) No.	(ii) Name of creditor or claimant	(iii) Address	(iv) Amount \$	(v) Date when contracted	(vi) Consideration and the nature of liability
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					

Show the total of column (iv) under "Liabilities" on page 1 of the Statement of Affairs

\$

Dated this day of

19 .

(Signature)

LIST I

LIST OF SHAREHOLDERS

Type of Shares - *Ordinary Shares of \$ _____ each at nominal value (only applicable to shares with nominal value)
 (*delete whichever is inapplicable)
 - *Preference Shares of \$ _____ each at _____ % nominal value (only applicable to shares with nominal value)
 - *Others (please specify) _____

(i) No.	(ii) No. in share register	(iii) Name of shareholder	(iv) Address	(v) No. of shares held	(vi) Amount per share fully paid/called up \$	(vii) Total amount i.e. (vi) multiplied by (v) Fully paid \$ Called up \$ \$		(viii) Total amount not called up (if any) \$
1.								

2.
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
Totals (show the totals of column (vii) under "Capital Issued and Allotted" on page 2 of the Statement of Affairs)						\$		

Dated this day of 19 . (Signature)

Notes: Separate list(s) should be used to provide a list of shareholders for each type of share capital, i.e. use separate list(s) for ordinary shareholders, preference shareholders, etc.

Page 1

LIST J

DEFICIENCY ACCOUNT

(1) Excess/(Deficiency) of Assets over Capital and Liabilities as per the company's latest audited balance sheet as at (This and the previous balance sheet to be annexed or handed to Official Receiver)			\$
(2) Gross profit (loss) arising from carrying on business from the date mentioned in (1) above or date of incorporation (whichever is the later) to date of winding-up order (as per Trading Account annexed)			
(3) Receipts, if any, during the same period as per item (2) from the following sources (see note):-			
	(a) Interest on loans	\$	
	(b) Interest on deposits		
	(c) Other receipts (please specify)		
	(d) Amounts paid on shares issued and subsequently forfeited (as per list annexed)		
(4) Subtotal of items (3)(a) to (3)(d) above			
(5) Total of items (1), (2) and (4)			

LESS

(6) Expenditure incurred and payments, if any, during the same period as per item (2):-

	(i) Amount paid \$	(ii) Amount outstanding at date of winding-up order \$	(iii) Total i.e. (i) + (ii) \$
(a) Salaries			
(b) Wages not charged in Trading Account			
(c) Rent			
(d) Rates and taxes			
(e) Legal costs			
(f) Commission			
(g) Interest on loans			
(h) Interest on debentures			
(i) Miscellaneous expenditure (as per details annexed)			
(j) Directors' fees			
(k) Dividends declared during same period			
(7) Subtotal of items (6)(a) to (6)(k) above			
(8) Amount carried forward to item (9) on next page, i.e. item (5) less item (7)		\$	

Page 2

LIST J

DEFICIENCY ACCOUNT (CONTINUED)

(9) Amount brought forward from previous page	\$
(10) Losses and depreciation, if any, written off in the company's books during the same period as per item (2) (see note):-	

		\$	
(a)	Bad debts		
(b)	Losses on investments		
(c)	Depreciation of property		
(d)	Preliminary expenses written off		
(e)	Others (please specify)		
(11)	Subtotal of items (10)(a) to (10)(e) above		
(12) Losses and depreciation not written off in company's books, now written off in the Statement of Affairs (see note):-			
(a)	Bad debts		
(b)	Losses on investments		
(c)	Depreciation of property		
(d)	Preliminary expenses written off		
(e)	Others (please specify)		
(13)	Subtotal of items (12)(a) to (12)(e) above		
(14)	Total of items (11) and (13)		
(15) SURPLUS/(DEFICIENCY) AS PER ITEM (23) IN PART II OF THE STATEMENT OF AFFAIRS i.e. item (9) less item (14)		\$	

Note: Where particulars are numerous they should be inserted in a separate schedule.

Dated this _____ day of _____ 19____.

(Signature)

(L.N. 24 of 1995; 25 of 1998 s. 2; 46 of 2000 s. 40; 28 of 2012 ss. 912 & 920 and E.R. 1 of 2014)

FORM 24

[rule 45]

REPORT OF RESULT OF MEETING OF CREDITORS OR CONTRIBUTORIES

In the matter, &c.

I, A.B., the Official Receiver of the court [*or as the case may be*] chairman of a meeting of the creditors [*or contributories*] of the above-named company summoned by advertisement [*or notice*] dated _____ the _____ day of _____, 19____, and held on the _____ day of _____ 19____, at _____, in the _____, do hereby report to the court the result of such meeting as follows-

The said meeting was attended, either personally or by proxy, by _____ creditors whose proofs of debt against the said company were admitted for voting purposes, amounting in the whole to the value of \$ _____ [*or by* _____ contributories, holding in the whole _____ shares in the said company, and entitled respectively by the regulations of the company to the number of votes

hereinafter mentioned].

The question submitted to the said meeting was, whether the creditors [*or* contributories] of the said company wished that [*here state proposal submitted to the meeting*].

The said meeting was unanimously of opinion that the said proposal should [*or* should not] be adopted; [or the result of the voting upon such question was as follows:] ^(a)

(a) Here set out the majorities by which the respective resolutions were carried.

Resolutions at meetings	Voting on resolutions					
	For			Against		
	No.	Amount		No.	Amount	
(State the substance of any resolutions passed and give names of committee of inspection (if any), and amount of their proofs if creditors or shares if contributories).						
CREDITORS-						
	No.	Shares	Votes	No.	Shares	Votes
CONTRIBUTORIES-						

Dated
day of

this

, 19

(Signed)

H. T.

Chairman

ORDER APPOINTING LIQUIDATOR

(Title)

the

day of

Upon the application of the provisional liquidator of the above-named company, by summons dated _____ and upon hearing the applicant in person and upon reading the order to wind up the said company dated _____, and the reports of the provisional liquidator of the results of the meetings of creditors and contributories made to the court and respectively dated the (a) [_____, and the affidavit of _____ as to the fitness of the liquidator named _____ hereinafter _____]. It is ordered that _____ of _____ be appointed liquidator of the above-named company.

(a) To be inserted only if such affidavit is required.

(b) It is also ordered that the following persons be appointed a committee of inspection to act with the said liquidator, namely- _____

(b) To be struck out if no committee of inspection appointed.

And it is ordered that the said liquidator do within 7 days from the date of this order give security to the satisfaction of the provisional liquidator as provided by the Companies (Winding-up) Rules (Cap 32 sub. leg. H).

And notice of this order is to be gazetted and advertised in the (c) _____.

(c) State name of newspaper (if any).

(L.N. 286 of 1997; 46 of 2000 s. 40; E.R. 1 of 2014)

FORM 26

[rule 47]

CERTIFICATE THAT LIQUIDATOR OR SPECIAL MANAGER HAS GIVEN SECURITY

(Title)

This is to certify that A.B., of _____, who was on the _____ day of _____, 19_____, appointed liquidator [or special manager] of the above-named company, has duly given security to the satisfaction of the Official Receiver.

Dated this _____ day of _____, 19_____.

(Signed)

J.S.

Official Receiver

FORM 27

[rule 45]

ADVERTISEMENT OF APPOINTMENT OF LIQUIDATOR

In the matter of _____, Limited.

By order of the _____, dated the _____ day of _____ 19____
Mr. _____ of _____
has been appointed liquidator of the above-named company with [or without] a committee of inspection.

Dated this _____ day
of _____, 19____.

FORM 28
(Repealed 28 of 2003 s. 126)

FORM 29 [rules 50-52]

ORDER DIRECTING A PUBLIC EXAMINATION

(Title)

Upon reading the reports of the Official Receiver or liquidator, as the case may be, in the above matter, dated respectively the _____ day of _____ 19____, the _____ day of _____ 19____ and

It is ordered that the several persons whose names and addresses are set forth in the schedule hereto do attend before the court on a day and at a place to be named for the purpose, and be publicly examined as to the promotion or formation of the company, and as to the conduct of the business of the company, and as to their conduct and dealings as directors or officers of the company.

THE SCHEDULE REFERRED TO

Name	Address	Connexion with the company

(46 of 2000 s. 40)

FORM 30 [rule 54]

ORDER APPOINTING A TIME FOR PUBLIC EXAMINATION

(Title)

Upon the application of the Official Receiver or liquidator, as the case may be, in the above matter, it is ordered that the public examination of _____ who, by the order of the court dated the _____ day of _____ 19____, was directed to attend before the court to be publicly examined, be held at the Courts of Justice on the _____ day of _____

19 , at o'clock in the noon.

And it is ordered that the above-named do attend at the place and time above-mentioned.

Dated this day of , 19 .

NOTE-Notice is hereby given that if you, the above-named fail, without reasonable excuse, to attend at the time and place aforesaid, you will be liable to be committed to prison without further notice.

(46 of 2000 s. 40)

FORM 31

[rule 54]

NOTICE TO ATTEND PUBLIC EXAMINATION

(Title)

Whereas by an order of this court, made on the day of 19 , it was ordered that you, the undermentioned

should attend before the court on the day and at a place to be named for the purpose, and be publicly examined as to the promotion or formation of the company, and as to the conduct of the business of the company, and as to your conduct and dealings as ^(a)

(a) Insert director or officer [or as the case may be.]

And whereas the day of 19 , at o'clock, in the noon, before the sitting at has been appointed as the time and place for holding the said examination.

Notice is hereby given that you are required to attend at the said time and place, and at any adjournments of the examination which may be ordered, and to bring with you and produce all books, papers, and writing and other documents in your custody or power in any way relating to the above-named company.

And take notice that if you fail, without reasonable excuse, to attend at such time and place, and at the adjournments of the said public examination which may be ordered, you will be liable to be committed to prison without further notice.

Dated this day of , 19 .

To

Official Receiver or liquidator, as the case may be

(46 of 2000 s. 40)

FORM 32

[rule 60]

APPLICATION FOR APPOINTMENT OF SHORTHAND

WRITER TO TAKE DOWN NOTES OF PUBLIC
EXAMINATION AND ORDER THEREON

(Title)

Ex parte the Official Receiver or liquidator, as the case may be.

I, _____ the Official Receiver or liquidator, as the case may be,
herein, do hereby, pursuant to rule 60 of the Companies (Winding-up) Rules (Cap 32 sub. leg. H),
apply to the court for an order for the appointment of
of _____
to take down in shorthand the notes of examination of
at their public examination, the costs of taking such notes, and of making a transcript thereof, to be
paid in accordance with rule 60.

Dated this _____ day
of _____, 19____.

Official Receiver or liquidator, as the case may be

Before

Upon the application of the Official Receiver or liquidator, as the case may be, the court
hereby appoints _____ of _____
to take down in shorthand the
notes of examination of the persons mentioned in the above application at their public examination,
or at any adjournment thereof pursuant to rule 60 of the Companies (Winding-up) Rules (Cap 32
sub. leg. H), the costs of taking such notes, and of making a transcript thereof, to be paid in
accordance with rule 60.

Dated this _____ day
of _____, 19____.
(46 of 2000 s. 40; E.R. 1 of 2014)

FORM 33

[rule 60]

DECLARATION BY SHORTHAND WRITER

(Title)

Before
I, _____,
of _____, the shorthand writer appointed by this
court to take down the examination of _____, do solemnly and sincerely
declare that I will truly and faithfully take down the questions and answers put to and given by the
said _____ in this matter, and will deliver true and faithful transcripts thereof
as the court may direct.

Dated this _____ day of _____,
19____.

[Declared before me at the time and place
above-mentioned.]

NOTES OF PUBLIC EXAMINATION WHERE A
SHORTHAND WRITER IS APPOINTED

(Title)

Before Public examination of ^(a) at the court
this day of
19 .

(a) Mr. an officer
[or as the case
may be] of the
above-named
company.

The above-named , being sworn and examined at the time
and place above-mentioned, upon the several questions following being put and propounded to
him, gave the several answers thereto respectively following each question, that is say:-

A.

These are the notes of the public examination referred to in the memorandum of public
examination of , taken before me this day of
19 .

NOTES OF PUBLIC EXAMINATION WHERE A
SHORTHAND WRITER IS NOT APPOINTED

(Title)

Before Public examination of ^(a) at the court
Dated this day of 19 .
The above-named , being sworn and examined at
the time and place above-mentioned, upon his oath saith as follows-

(a) Mr. an officer
[or as the case may
be] of the above-
named company.

A.

These are the notes of the public examination referred to in the memorandum of public
examination of , taken before me this
day of 19 .

REPORT TO THE COURT WHERE PERSON
EXAMINED REFUSES TO ANSWER TO SATISFACTION
OF REGISTRAR OR OFFICER

(Title)

At the examination of ^(a)
held before me this day
of , 19 , the following question
was [allowed by me to be] put to the said [].

(a) e.g. A.B., a
person ordered to
attend for
examination.

(b) Here state
question.

Q. ^(b)

(c) Witness.

The ^(c)
answer the said question.

refused to

(or) The ^(c)
question as follows:-

answered the said

(d) Here insert
answers (if any).

A. ^(d)

I thereupon named the day of
19 , at as the time and place for such [refusal to] answer to be reported to the
Hon. Mr. Justice [or His Honour Mr.
Justice].

Dated this
of

, 19 . day

Registrar

[or as the case may be]

FORM 37

[section 222]

ORDER ON PERSONS TO ATTEND AT
CHAMBERS TO BE EXAMINED

(Title)

A.B. of &c., and E.F. of &c., are hereby severally ordered to attend at ^(a)
on the day
of , at of the
clock in the noon, to be examined on the part of the Official Receiver
[or the liquidator] for the purpose of proceedings directed by the court to be taken in the above
matter. [And the said A.B. is hereby required to bring with him and produce, at the time and place
aforesaid, the documents mentioned in the schedule hereto, and all other books, papers, deeds,
writings, and other documents in his custody or power in anywise relating to the above-named
company.]

(a) State place of
examination.

Dated this
of

, 19 . day

This order was made on the application of *Messrs. C. and D.*, of
Solicitors for

The schedule above referred to

FORM 38

[rule 56]

WARRANT AGAINST PERSON WHO FAILS
TO ATTEND EXAMINATION

(Title)

To the bailiff of our said court, and to each and all the police officers of Hong Kong and to the Commissioner of Correctional Services.

WHEREAS by an order of this court, made on the _____ day of _____, 19____, ^(a) _____ was ordered to attend before the court on a day and at a place to be named for the purpose of being publicly examined. (a) Name of person required to attend.

AND WHEREAS by evidence taken upon oath, it hath been made to appear to the satisfaction of the court that the _____ day of _____, 19____, at _____ o'clock in the _____ noon before the court sitting at the Courts of Justice was appointed as the time and place for holding the said examination, and that notice of the said order and of the said time and place so appointed was duly served upon the said ^(a) _____

(AND WHEREAS the said ^(a) _____ did without good cause fail to attend on the said _____ day of _____, 19____, for the purpose of being examined, according to the requirements of the said order of this court made on the _____ day of _____, 19____, directing him so to attend.) (or, and that the said ^(a) _____ has absconded (or, and that there is good reason to believe that the said ^(a) _____ is about to abscond) with a view to avoiding examination under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32)).

THESE ARE THEREFORE to require you the said bailiff and police officers to take the said ^(a) _____

and to deliver him to the Commissioner of Correctional Services, and you the said Commissioner of Correctional Services to receive the said ^(a) _____ and him safely keep in prison until such time as this Court may order.

Dated the _____ day of _____, 19____.

Registrar
(L.N. 201 of 1984; 28 of 2012 ss. 912 & 920)

FORM 38A

[rule 56]

ORDER FOR WARRANT OF ARREST OF PERSON WHO HAS
FAILED TO ATTEND PUBLIC EXAMINATION

(Title)

Upon the application of S.W. the Official Receiver or Liquidator of the above-named company, as the case may be by summons dated the _____ day of _____, 19____, and upon hearing the applicant in person and upon reading the order to wind up the said company dated the order dated and the affidavit of C.D. filed and the exhibits therein referred to and by which said affidavit it has been made to appear to the court that by the

said order dated _____ A.B. was directed to attend before the court on a day to be named for the purpose and be publicly examined as to the matters referred to in the said order and that the day of, at o'clock in the noon at the Courts of Justice, Hong Kong, were appointed as the day, time and place for holding the said examination and it has also been duly proved by the said affidavit of C.D. that the said order dated the and the notice to attend such examination on the at o'clock respectively had been duly served upon the said A.B. and it appearing that the said A.B. without good cause failed to attend on the in pursuance of the said order of the (date). IT IS ORDERED that a warrant do issue for the arrest of the said A.B.

Dated the _____ day
of _____, 19 _____.

Registrar
(25 of 1998 s. 2; 46 of 2000 s. 40)

FORM 39

[rule 63]

DISCLAIMER

(Title)

Pursuant to an order for the court dated the _____ day
of _____, 19 _____,

I, _____ the
liquidator of the above-named company, hereby disclaim all interest in the lease dated the
day of _____, 19 _____, whereby the premises ^(a) (a) Insert description
were demised to _____ at a rent of \$ _____ of the property
per annum for a term of _____ . Notice of this disclaimed.
disclaimer has been given to _____

Dated this _____ day
of _____

19 _____,

Liquidator

FORM 40

[rule 63]

NOTICE OF DISCLAIMER OF LEASE

(Title)

Take notice that, pursuant to an order of the court dated the _____ day

of _____, 19_____,
I, _____, the
liquidator of the above-named company, by writing under my hand bearing date the
day of _____, 19_____, disclaimed all interest in the lease
dated the _____ day of _____, (a) Insert
19_____, whereby the premises (a) description of the
demised to _____ were property
at a rent of \$ _____ per disclaimed.
annum for a term of _____

The above-mentioned disclaimer has been filed at the office of the Registrar at the Courts of
Justice and notice thereof filed in the Land Registry.

Dated this _____ day
of _____, 19_____.

Liquidator

To _____

(address)
(8 of 1993 s. 30)

FORM 41

[rule 67]

NOTICE BY LIQUIDATOR REQUIRING PAYMENT OF MONEY OR DELIVERY OF BOOKS, &C., LIQUIDATOR

(Title)

Take notice that I, the undersigned (a) (a) Name of
have been appointed liquidator of the above-named company, and that you, the under-mentioned (b) liquidator.
(b) Name of person
, are required, within to whom notice is
days after service hereof, to pay to me [or deliver, convey, surrender, or transfer to or into my addressed.
hands] as (c) Address of
(c) Address of
liquidator of the said company at my office, situate at (c) liquidator's office.
&c., the sum of \$ _____, being the amount of debt appearing to be
due from you on your account with the said company [or any sum or balance, books, papers, estate
or effects], [or specifically describe the property] now being in your hands, and to which the said
company is entitled [or otherwise as the case may be].

Dated this _____ day
of _____, 19_____.

(Signed)

Liquidator

To (b)

(Address)

NOTICE TO CONTRIBUTORIES OF APPOINTMENT TO SETTLE
LIST OF CONTRIBUTORIES

(Title)

Take notice that I, _____ the liquidator of the
above-named company, have appointed the _____ day
of _____, 19____, at _____ of _____ (a) Insert place of
the clock in the _____ noon, at _____ appointment.
(a) _____, to settle the
list of the contributories of the above-named company, made out by me, pursuant to the Companies
(Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32), and the rules thereunder, and
that you are included in such list. The character and the number of shares [*or* extent of interest] in
and for which you are included and the amount called up and the amount paid up in respect of such
shares (or interest) is stated below; and if no sufficient cause is shown by you to the contrary at the
time and place aforesaid, the list will be settled, including you therein.

Dated this _____ day
of _____, 19____.

Liquidator

To Mr. A.B. [and to Mr. C.D.,
his solicitor]. }

No. on List	Name	Address	Description	In what character included	Number of shares [<i>or</i> extent of interest]	Amount called up (a)	Amount paid up (a)
						\$	\$

(a) At date of commencement of winding up. (28 of 2012 ss. 912 & 920)

FORM 44

[rule 69]

AFFIDAVIT OF POSTAGE OF NOTICES OF APPOINTMENT TO
SETTLE LIST OF CONTRIBUTORIES

(Title)

I ,
make oath and say as follows:-

1. That I did on the _____ day
of _____, 19_____, send to each contributory mentioned
in the list of contributories made out by the [Official Receiver and] liquidator on the
day of _____, 19_____, and now on the file of proceedings of
the above-named company, at the address appearing in such list, a notice of the time and place of
the appointment to settle the list of contributories in the form hereunto annexed, marked "A",
except that in the tabular form at the foot of such copies respectively I inserted the number, name,
address, description, in what character included and (b)
the amount called up and the amount paid up in respect of the shares (or interest) of the person on
whom such copy of the said notice was served.

2. That I sent the said notices by putting the same prepaid into the post office at
before the hour of _____ o'clock in the _____ noon on
the said day _____.

Sworn, &c.

a (a) State the
description of the
deponent.

(b) "Number of
shares" or "extent
of interest".

FORM 45

[rule 70]

CERTIFICATE OF LIQUIDATOR OF FINAL SETTLEMENT OF THE LIST OF CONTRIBUTORIES

(Title)

Pursuant to the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32), and to the rules made thereunder, I, the undersigned, being the liquidator of the above-named company, hereby certify that the result of the settlement of the list of contributories of the above-named company, so far as the said list has been settled, up to the date of this certificate, is as follows-

1. The several persons whose names are set forth in the second column of the First Schedule hereto have been included in the said list of contributories as contributories of the said company in respect of the (a) _____ set opposite the names of such contributories respectively in the said schedule.

(a) "Number of
shares" or "extent
of interest".

I have, in the first part of the said schedule, distinguished such of the said several persons included in the said list as are contributories in their own right.

I have, in the second part of the said schedule, distinguished such of the said several persons included in the said list as are contributories as being representatives of or being liable to the debts of others.

2. The several persons whose names are set forth in the second column of the Second Schedule hereto, and were included in the provisional list of contributories, have been excluded from the said list of contributories.

3. I have, in the sixth column of the first part of the First Schedule and in the seventh column of the second part of the First Schedule and in the same column of the Second Schedule, set forth opposite the name of each of the several persons respectively the date when such person was included in or excluded from the said list of contributories.

4. I have in the seventh and eighth columns of the first part of the First Schedule hereto and in the eighth and ninth columns of the second part of the said schedule, set forth opposite the

names of each of the said persons respectively the amount called up at the date of the commencement of the winding up and the amount paid at such date in respect of their shares (or interest).

5. Before settling the said list, I was satisfied by the affidavit of

, clerk to
, duly filed with
the proceedings herein, that notice was duly sent by post to each of the persons mentioned in the said list, informing him that he was included in such list in the character and for the^(a)
stated therein and of the amount called up and the amount paid up in respect of such shares (or interest) and of the day appointed for finally settling the said list.

Dated this _____ day
of _____, 19____.

In the matter of _____ Limited.

The FIRST SCHEDULE above referred to

FIRST PART-CONTRIBUTORIES IN THEIR OWN RIGHT

Serial No. in List	Name	Address	Description	Number of shares [<i>or</i> extent of interest]	Date when included in the List	Amount called up	Amount paid up
						\$	\$

In the matter of _____ Limited.

SECOND PART-CONTRIBUTORIES AS BEING REPRESENTATIVES OF OR LIABLE TO THE DEBTS OF OTHERS

Serial No. in List	Name	Address	Description	In what character included	Number of shares [<i>or</i> extent of interest]	Date when included in the List	Amount called up	Amount paid up
							\$	\$

--	--	--	--	--	--	--	--	--

In the matter of

Limited.

The SECOND SCHEDULE above referred to

Serial No. in List	Name	Address	Description	In what character proposed to be included	Number of shares [or extent of interest]	Date when excluded from the List

(28 of 2012 ss. 912 & 920)

FORM 46

[rule 71]

NOTICE TO CONTRIBUTORY OF FINAL SETTLEMENT OF LIST OF CONTRIBUTORIES AND THAT HIS NAME IS INCLUDED

(Title)

Take notice that I, _____, the liquidator of the above-named company, have, by certificate, dated the _____ day of _____, 19____, under my hand, finally settled the list of contributories of the said company, and that you are included in such list. The character and the number of shares [or extent of interest] in and for which you are included and the amount called up and the amount paid up in respect of such shares (or interest) is stated below.

Any application by you to vary the said list of contributories or, that your name be excluded therefrom, must be made by you to the court by summons within 21 days from the service on you of this notice, or the same will not be entertained.

The said list may be inspected by you at the chambers of the Registrar at the Courts of Justice on any day between the hours of _____ and _____

Dated this _____ day
of _____, 19____.

(Signed)

Liqui
dator

to Mr.
[or to Mr.
his solicitor]. }

No. in List	Name	Address	Description	In what character included	Number of shares [<i>or</i> extent of interest]	Amount called up (a)	Amount paid up (a)
						\$	\$

(a) At date of commencement of winding up.

FORM 47

[rule 73]

SUPPLEMENTAL LIST OF CONTRIBUTORIES

(Title)

1. The following is a list of persons who, since making out the list of contributories herein, dated the _____ day of _____, 19____, I have ascertained are, or have been, holders of shares in [*or* members of] the above-named company, and to the best of my judgment are contributories of the said company.

2. The said supplemental list contains the names of such persons together with their respective addresses and the number of shares [*or* extent of interest] and the amount called up at the commencement of the winding up and the amount paid at such date in respect of the shares (*or* interest) to be attributed to each.

3. In the first part of the said list such of the said persons as are contributories in their own right are distinguished.

4. In the second part of the said list such of the said persons as are contributories as being representatives of, or being liable to the debts of others, are distinguished.

[*The supplemental list is to be made out in the same form as the original list.*]

AFFIDAVIT OF SERVICE OF NOTICE TO CONTRIBUTORY

(Title)

I ,
of , make oath and say as follows:-

(a) (a) State full
description of the
deponent.

1. I did on the day of 19 , in the manner hereinafter mentioned, serve a true copy of the notice now produced and shown to me and marked "A", upon each of the respective persons whose names, addresses, and descriptions appear in the second, third, and fourth columns of the First Schedule to the list of contributories of the said company made out by the [Official Receiver and] liquidator of the company on the day of , 19 , and now on the file of proceedings of the said company. In the tabular form at the foot of such copies respectively I inserted the number on list, name, address, description, in what character included, and (b) and the amount paid up and the amount called up at the date of the commencement of the winding up in respect of the shares (or interest) of the person on whom such copy of the said notice was served, in the same words and figures as the same particulars are set forth in the said schedule.

(b) "Number of
shares" or "extent
of interest".

2. I served the said respective copies of the said notice, by putting such copies respectively, duly addressed to such persons respectively, according to their respective names and addresses appearing in the said schedule, and by placing the same prepaid in the Post Office at before the hour of o'clock in the noon of the said day of , 19 .

Sworn, &c.

ORDER ON APPLICATION TO VARY LIST OF CONTRIBUTORIES

(Title)

Upon the application of W.N., by summons dated the day of , 19 , for an order that the list of contributories of the company and the liquidator's certificate finally settling the same be varied by excluding the name of the applicant therefrom [*or as the case may be*], and upon hearing, &c., and upon reading &c., it is ordered, that the list of contributories of the company and the liquidator's certificate finally settling the same be varied by excluding the name of the said W.N. from the said list of contributories, or by including the name of the said W.N. as a contributory in the said list for shares, [*or as the case may be*] [*or the court does not think fit to make any order on the said application, except that the said W.N. do pay to the liquidator of the said company his costs of this application, to be taxed in case the parties differ*].

NOTICE TO EACH MEMBER OF COMMITTEE OF
INSPECTION OF MEETING FOR SANCTION TO PROPOSED CALL

(Title)

Take notice that a meeting of the committee of inspection of the above company will be held at _____ on the ^(a) _____, 19____, at _____ o'clock in the _____ day of _____, noon, for the purpose of considering and obtaining the sanction of the committee to a call of \$ _____ per share proposed to be made by the liquidator on the contributories.

(a) To be a date not less than seven days from the date when the notice will in course of post reach the person to whom it is addressed.

Annexed hereto is a statement showing the necessity for the proposed call and the amount required.

Dated this _____ day of _____, 19____.

(Signed)

Liquidator

STATEMENT

1. The amount due in respect of proofs admitted against the company, and the estimated amount of the costs, charges, and expenses of the winding up, form in the aggregate the sum of \$ _____ or thereabouts.

2. The assets of the company are estimated to realize the sum of \$ _____. There are no other assets, except the amount due from certain of the contributories to the company, and in my opinion it will not be possible to realize in respect of the said amounts more than \$ _____.

3. The list of contributories has been duly settled, and persons have been settled on the list in respect of the total number of _____ shares.

4. For the purpose of satisfying the several debts and liabilities of the company, and of paying the costs, charges, and expenses, of the winding up, I estimate that a sum of \$ _____ will be required in addition to the amount of the company's assets hereinbefore mentioned.

5. In order to provide the said sum of \$ _____ it is necessary to make a call on the contributories, and having regard to the probability that some of them will partly or wholly fail to pay the amount of the call, I estimate that for the purpose of realizing the amount required it is necessary that a call of \$ _____ per share should be made.

(Annex tabular statement showing amounts of debts, costs, &c., and of assets.)

FORM 51

[rule 74(b)]

ADVERTISEMENT OF MEETING OF COMMITTEE
OF INSPECTION TO SANCTION PROPOSED CALL

(Title)

Notice is hereby given that the undersigned liquidator of the above-named company proposes that a call should be made "on all the contributories of the said company", *or, as the case may be,*

of \$ _____ per share, and that he has summoned a meeting of the committee of inspection of the company, to be held at _____ on the day of _____, 19_____, at _____ o'clock in the _____ noon, to obtain their sanction to the proposed call.

Each contributory may attend the meeting, and be heard or make any communication in writing to the liquidator or the members of the committee of inspection in reference to the intended call.

A statement showing the necessity of the proposed call and the purpose for which it is intended may be obtained on application to the liquidator at his office at ^(a)_____.

Dated this _____ day _____, 19_____. (a) Insert address.

Li
q
ui
d
at
or

FORM 52

[rule 74(d)]

RESOLUTION OF COMMITTEE OF INSPECTION SANCTIONING CALL

(Title)

Resolved, that a call of \$ _____ per share be made by the liquidator on all the contributories of the company [*or, as the case may be*].

(signed)

Members of the
Committee _____
of _____
Inspection _____

Dated this _____ day _____, 19_____.
of _____

FORM 53

[rule 77]

NOTICE OF CALL SANCTIONED BY COMMITTEE OF INSPECTION TO BE SENT TO CONTRIBUTORY

(Title)

Take notice that the committee of inspection in the winding up of this company have sanctioned a call of _____ per share on all the contributories of the company.

The amount due from you in respect of the call is the sum of
\$. This sum should be paid by you direct to me at my office ^(a) (a) Insert address.
on or before the day of , 19 .

Dated this day
of , 19 .

To Mr.

Liquidat
or

NOTE-If you do not pay the sum due from you by the date mentioned interest will be claimed on such sum at the rate of 8 per cent per annum from the said date until payment.

FORM 54

[rule 75]

SUMMONS FOR LEAVE TO MAKE A CALL

(Title)

Let the several persons whose names and addresses are set forth in the second column of the schedule hereto, being contributories of the above-named company, as shown in the third column of the said schedule, attend at on the day of , 19 , at o'clock in the noon, on the hearing of an application on the part of the [Official Receiver and] liquidator of the company for an order that he may be at liberty to make a call to the amount of per share on all the contributories [*or as the case may be*] of the said company.

Dated the day of ,
19 .

This summons was taken out by of
Solicitors for the [Official Receiver and] liquidator.

To

NOTE-If you do not attend either in person or by your solicitor, at the time and place above-mentioned, such order will be made and proceedings taken as the court may think just and expedient.

SCHEDULE

Number on List	Name and address	In what character included

AFFIDAVIT OF LIQUIDATOR IN SUPPORT OF
PROPOSAL FOR CALL

(Title)

I, _____ of, &c., the liquidator of the above-named company, make oath and say as follows-

1. I have in the schedule now produced and shown to me, and marked with the letter "A", set forth a statement showing the amount due in respect of the debts proved and admitted against the said company, and the estimated amount of the costs, charges, and expenses of and incidental to the winding up the affairs thereof, and which several amounts form in the aggregate the sum of \$ _____ or thereabouts.

2. I have also in the said schedule set forth a statement of the assets in hand belonging to the said company, amounting to the sum of \$ _____ and no more. There are no other assets belonging to the said company, except the amounts due from certain of the contributories of the said company, and, to the best of my information and belief, it will be impossible to realize in respect of the said amounts more than the sum of \$ _____ or thereabouts.

3. _____ persons have been settled by me on the list of contributories of the said company in respect of the total number of shares.

4. For the purpose of satisfying the several debts and liabilities of the said company and of paying the costs, charges, and expenses of and incidental to the winding up the affairs thereof, I believe the sum of \$ _____ will be required in addition to the amount of the assets of the said company mentioned in the said Schedule A, and the said sum of \$ _____.

5. In order to provide the said sum of \$ _____, it is necessary to make a call upon the several persons who have been settled on the list of contributories as before-mentioned, and, having regard to the probability that some of such contributories will partly or wholly fail to pay the amount of such call, I believe that, for the purpose of realizing the amount required as before-mentioned, it is necessary that a call of \$ _____ per share should be made.

Sworn, &c.

ADVERTISEMENT OF APPLICATION FOR LEAVE TO MAKE A CALL

In the matter of

Notice is hereby given that the High Court has appointed _____ the _____ day of _____ 19____, at _____ o'clock in the _____ noon, at the Courts of Justice, to hear an application for leave to make a call on all the contributories of the said

company [*or as the case may be*] and that the liquidator of the said company proposes that such call shall be for \$ _____ per share. All persons interested are entitled to attend at such day, hour, and place, to offer objection to such call.

Dated this _____ day
of _____, 19____.

Liquidat
or
(25 of 1998 s. 2)

FORM 57

[rule 75]

The _____ day of
19____.

ORDER GIVING LEAVE TO MAKE A CALL

The _____ day of
19____.

(Title)

Upon the application of the [Official Receiver and] liquidator of the above-named company, the order to wind up the above-named company, the list of contributories of the said company and the liquidator's certificate of the final settlement of the same, and the affidavit of the said [Official Receiver and] liquidator, filed the _____ day of
19____, and the exhibit marked "A" therein referred to, and an affidavit of
filed the _____ day of 19____.

It is ordered that leave be given to the [Official Receiver and] liquidator to make a call of \$ _____ per share on all the contributories of the said company^(a).

(a) *Or as the case may be.*

And it is ordered that each such contributory do on or before the _____ day of
19____, pay to the [Official Receiver and] liquidator of the
company, the amount which will be due from him or her in respect of such call.

FORM 58

[rule 76]

DOCUMENT MAKING A CALL

(Title)

I, _____ the [Official Receiver and] liquidator of the above-named company, in pursuance of _____ day of
made (or passed) this _____ day of
19____, hereby make a call of _____
per share on all the contributories of the company, which sum is to be paid at my office _____
on the _____ day of
19____.

(a) An order of court, or resolution of the committee of inspection.
(b) Insert address.

Dated this _____ day
of _____, 19____.

(L.N. 587 of 1995)

FORM 59

[rule 77]

NOTICE TO BE SERVED WITH THE ORDER SANCTIONING A CALL

(Title)

The amount due from you, *A.B.*, in respect of the call made pursuant to leave given by the above [*or within*] order is the sum of \$, which sum is to be paid by you to me as the liquidator of the said company at my office, ^(a). (a) Insert address.

In default of payment interest at the rate of 8 *per cent per annum* will be charged upon the amount unpaid from the day of until payment.

Dated this day of , 19 .

To Mr. *A.B.*

Liquidat
or

FORM 60

[rule 78]

AFFIDAVIT IN SUPPORT OF APPLICATION FOR ORDER
FOR PAYMENT OF CALL

(Title)

I, of, &c., the liquidator of the above-named company, make oath and say as follows:-

1. None of the contributories of the said company, whose names are set forth in the schedule hereto annexed, marked "A", have paid or caused to be paid the sums set opposite their respective names in the said schedule, which sums are the amounts now due from them respectively under the call of per share, duly made under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32) dated the day of 19 .

2. The respective amount or sums set opposite the names of such contributories respectively in such schedule are the true amounts due and owing by such contributories respectively in respect of the said call.

A

THE SCHEDULE ABOVE REFERRED TO

No. on List	Name	Address	Description	In what character included	Amount due
-------------	------	---------	-------------	----------------------------	------------

					\$	¢
--	--	--	--	--	----	---

Sworn, &c.

NOTE-In addition to the above affidavit, an affidavit of the service of the application for the call will be required in cases in which the committee of inspection of the court has authorized a call to be made.

(28 of 2012 ss. 912 & 920)

FORM 61

[rule 78]

ORDER FOR PAYMENT OF CALL DUE FROM A CONTRIBUTORY

The _____ day
of _____, 19____.

(Title)

Upon the application of the liquidator of the above-named company, and upon reading an affidavit of _____ filed the _____ day of _____, 19____, and an affidavit of the liquidator filed the _____ day of _____, 19____, it is ordered that *C.D.*, of, &c., [*or E.F.*, of, &c., the legal personal representative of *L.M.*, late of, &c., deceased], one of the contributories of the said company [*or, if against several contributories*, the several persons named in the second column of the schedule to this order, being respectively contributories of the said company], do, on or before the _____ day of _____, 19____, or within 4 days after _____ (a) Insert address. service of this order, pay to *A.B.*, the liquidator of the said company at his office, ^(a) _____, the sum of \$ _____ [*if against a legal personal representative add*, out of the assets of the said *L.M.* deceased, in his hands as such legal personal representative as aforesaid, to be administered in due course of administration, if the said *E.F.* has in his hands so much to be administered, *or, if against several contributories*, the several sums of money set opposite to the respective names in the sixth column of the said schedule hereto], such sum [*or sums*] being the amount [*or amounts*] due from the said *C.D.* [*or L.M.*], [*or the said several persons respectively*], in respect of the call of \$ _____ per share duly made, dated the _____ day of _____, 19____.

And it is ordered that the said several persons do within the like period and at the place aforesaid pay to the said *A.B.*, as such liquidator as aforesaid, interest at the rate of 8 *per cent per annum* on the amounts specified in the sixth column of the said schedule from day of _____ to the date of payment.

And it is ordered that the said several persons do within the like period and at the place aforesaid pay to the said *A.B.*, as such liquidator as aforesaid, the several sums set opposite their respective names in the seventh column of the said schedule, such sums being the proportion of the applicant's costs of the said application payable by such several persons respectively.

[Add appropriate paragraphs as to amounts payable by legal personal representatives, if any.]

THE SCHEDULE REFERRED TO IN THE FOREGOING ORDER

No. on List	Name	Address	Description	In what character included	Amount due	
					\$	¢

NOTE-The copy for service of the above order must be endorsed as follows-

"If you, the undermentioned A.B., neglect to obey this order by the time mentioned therein you will be liable to process of execution, for the purpose of compelling you to obey the same."

(L.N. 286 of 1997)

FORM 62

[rule 78]

AFFIDAVIT OF SERVICE OF ORDER FOR PAYMENT OF CALL

(Title)

I, *F.B.*, of, &c., make oath and say as follows-

1. I did on the _____ day of _____, 19____, personally serve *G.F.*, of _____, &c., with an order made in this matter by this court, dated the _____ day of _____, 19____, whereby it was ordered [*set out the order*] by delivering to and leaving with, the said *G.F.*, at _____, a true copy of the said order, and at the same time producing and showing unto him, the said *G.F.*, the said original order.

2. There was endorsed on the said copy when so served the following words, that is to say, "*If you, the undermentioned G.F., neglect to obey this order by the time mentioned therein, you will be liable to process of execution for the purpose of compelling you to obey the same*".

Sworn, &c.

FORM 63A

[rule 80]

PROOF OF DEBT-GENERAL FORM

IN THE HIGH COURT OF HONG KONG

COMPANIES WINDING-UP No. _____ of 19____

Except in the case of claims for wages or salary, where the debt proved for exceeds \$250 a fee of \$15 must be paid

IN THE MATTER of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32)

and

hereon otherwise the
proof cannot be admitted.

IN THE MATTER of

Date of Winding-up Order

1	Name of creditor	
2	Address of creditor	
3	Total amount of claim, including any outstanding uncapitalised interest as at the date of the winding-up order	(Analysis of claim can be supplied on separate sheet signed by creditor or person authorized to act on his behalf) \$
4	Details of any documents by reference to which the debt can be substantiated [Note: Either the originals or copies of documentary evidence should be submitted. Bills of exchange or other negotiable securities must be produced before the proof can be admitted. The Official Receiver or liquidator may call for any document or evidence to substantiate the claim at his discretion.]	
5	If total amount above includes outstanding uncapitalised interest please state amount	
6	Particulars of how and when debt incurred	
7	Particulars of any security held, the value of the security, and the date it was given	
8	<p>I hereby declare that the particulars set out in this Proof of Debt are, to the best of my knowledge and belief, true and correct.</p> <p>Signature of creditor or person authorized to act on his behalf</p> <p>_____</p> <p>Name in BLOCK LETTERS</p> <p>_____</p> <p>Position with or relation to creditor and means of knowledge of the matters declared herein</p> <p>_____</p>	

Warning: A person convicted of making a false statement in respect of a proof of debt shall be liable to a fine at level 6 and imprisonment for 6 months. (sections 349 and 351)

Admitted to vote for

\$

Date

Official Receiver/Provisional Liquidator

Admitted preferentially for

\$

Date

Liquidator

Admitted non-preferentially for

\$

Date

Liquidator

To be returned to the provisional liquidator or, if a liquidator has been appointed, to the liquidator.

Note: The proof cannot be admitted for voting at the first meeting unless it is properly completed and lodged with

the liquidator not later than 24 hours before the time specified in the notice convening the meeting.
(L.N. 225 of 1992; L.N. 306 of 1996; 25 of 1998 s. 2; 46 of 2000 s. 40; 28 of 2012 ss. 912 & 920; E.R. 1 of 2014)

FORM 63B

[rule 83]

AFFIDAVIT OF DEBT

IN THE HIGH COURT OF HONG KONG

COMPANIES WINDING-UP No.

of 19

IN THE MATTER of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32)

and

IN THE MATTER of

I, ^(a) _____,
of _____,
make oath and say-
(1) ^(b) That I am ^(c) _____
of the under-mentioned creditor, and that I am duly authorized by ^(d) _____
to make this affidavit, and that it is within my own knowledge that the debt
hereinafter deposed to was incurred and that such debt, to the best of my knowledge and
belief, still remains unpaid and unsatisfied.
(2) That the above-named company was, at the date of the order for winding up the
same, viz., the _____ day of _____ 19_____, and still is justly and
truly indebted to ^(e) _____
in the sum of dollars _____ as shown in the proof of debt
exhibited hereto marked "A".

(a) Fill in full name,
address and occupation of
deponent.
(b) If proof made by
creditor personally strike out
clause (1).
(c) State capacity, e.g.
director, company secretary,
solicitor, etc. (d) State full
name and address of creditor.
(e) Insert "me" or in case of
a firm "me and C.D. and
E.F.", my co-partners trading
as", or, if by clerk or agent
etc. insert name, address and
description of principal.

Debt.....\$ _____ :

Sworn at _____ day of _____ 19_____,
this _____ day of _____ } [Deponent's
Signature.]

Before me,

[Notary Public/
Commissioner for Oaths/
other authorized person+]

+ Delete as appropriate.

Warning: A person convicted of making a false statement in respect of a proof of debt shall be liable to a fine at level 6 and imprisonment for 6 months. (sections 349 and 351)

To be returned to the provisional liquidator or, if a liquidator has been appointed, to the liquidator.

(L.N. 225 of 1992; L.N. 306 of 1996; 47 of 1997 s. 10; 25 of 1998 s. 2; 46 of 2000 s. 40; 28 of 2012 ss. 912 & 920; E.R. 1 of 2014)

PROOF OF DEBT OF WORKMEN

(Title)

(b) I (a)

make an oath and say:

1. That the above-named company was on the day of

19 , and still is justly and truly indebted to the several persons whose names, addresses, and descriptions appear in the schedule endorsed hereon in sums severally set against their names in the sixth column of such schedule for wages due to them respectively as workmen or others in the employ of the company in respect of services rendered by them respectively to the company during such periods as are set out against their respective names in the fifth column of such schedule, for which said sums, or any part thereof, I say that they have not, nor hath any of them had or received any manner of satisfaction or security whatsoever.

Sworn at
in Hong Kong
this
day of
19

}

}

Before me

Deponent's Signature.

of (a) Fill in full name,
address, and
occupation of
deponent.

day (b) On behalf
of the workmen and
others employed by
the above-named
company.

SCHEDULE referred to on the other side

1	2	3	4	5	6	
No.	Full name of workman	Address	Description	Period over which wages due	Amount due	
					\$	¢

Signature of Deponent.

(L.N. 201 of 1984)

NOTICE OF REJECTION OF PROOF OF DEBT

(Title)

Take notice, that, as [Official Receiver and] liquidator of the above-named company, I have this day rejected your claim against the company ^(a) [to the extent of \$]

(a) If proof wholly

rejected strike out
works underlined.

(b) 21 days or 7 days as the case may be.

Signature

Address

To

[Official Receiver and] Liquidator

FORM 66

[rule 101]

LIST OF PROOFS TO BE FILED UNDER RULE 101

(Title)

I hereby certify that the following is a correct list of all proofs tendered to me in the above matter during the past month.

Dated this _____ day
of _____, 19____.

Liquidato

Name of creditor	Proofs tendered				
	Amount of proofs		Whether admitted, rejected, or standing over for further consideration	If admitted, amount	
	\$	¢		\$	¢

FORM 67

[rule 142(1)]

NOTICE TO CREDITORS OF INTENTION TO DECLARE DIVIDEND

(Title)

A ^(a) dividend is intended to be declared in the above matter. You are mentioned in the statement of affairs, but you have not yet proved your debt.

(a) Insert here
"first" or "second",
or "final", or as the
case may be.

If you do not prove your debt by the _____ day of _____
19_____, you will be excluded from this dividend.

Dated this _____ day
of _____, 19____.

Liquidato

r

To

[
A
d
d
r
e
s
s
]

FORM 68

[rule 142(5)]

CERTIFIED LIST OF PROOFS UNDER RULE 142(5)
COMPANIES (WINDING-UP) RULES (CAP 32 SUB. LEG. H), AND APPLICATION
FOR ISSUE OF CHEQUES FOR DIVIDEND ON
COMPANIES LIQUIDATION ACCOUNT

Companies Liquidation Account.
Ledger Folio

Re

I hereby certify that the following list has been compared with the proofs filed, and that the names of the creditors and the amounts for which the proofs are admitted are correctly stated.

(Signature)

Dated the _____ day
of _____, 19____.

I certify that by my books the sum of \$ _____ stands to the credit of the above company with the companies liquidation account at the bank and that the sum of \$ _____ is required to meet the undermentioned dividends, on proofs which have been duly made and admitted to rank for dividend upon the company, and I have to request that orders for payment may be issued to me.

The dividend is payable on the _____ day of _____

Liquidator

19

To the Official Receiver.

[illegible]

(E.R. 1 of 2014)

[rule 142(5)]

(*Title*)

(Signature)

I hereby certify that a dividend of _____ *per cent* has been declared, and that the creditors whose names are set forth below are entitled to the amounts set opposite their respective names.

Dated this _____ day of _____, 19____.

102

[Address]
[Date]

Notice is hereby given that a dividend of *per cent* has been declared in this matter, and that the same may be received at my office, as above, on the day of 19 , or on any subsequent between, the hours of and

Upon applying for payment **this notice must be produced entire**, together with any bills of exchange, promissory notes or other negotiable securities held by you. If you desire the dividend to be paid to some other person you can sign and lodge with the liquidator an authority in the prescribed Form 72. Otherwise if you do not attend personally you must fill up and sign the subjoined forms of RECEIPT and AUTHORITY TO DELIVER, when a cheque or money order payable to your order will be delivered in accordance with the AUTHORITY.

To

(Signed)

Liqui
dator

NOTE-The receipt or authority should, in the case of a firm, be signed in the firm's name, or in the case of a limited company by an officer of the company, so described.

RECEIPT

Received in this matter the sum of dollars and cents , being the amount payable to me/us in respect of the dividend of *per cent* on my/our claim against this company.

Paye
e's
Sign
atur
e

\$

AUTHORITY FOR DELIVERY ^(a)

Sir,

Please deliver *to me/us by post, at my/our risk or to the Bearer ^(b)*, a specimen of whose signature is appended hereunder, the cheque or money order for the dividend payable to me/us in this matter.

.....
Specimen signature of Bearer

To the [Official Receiver and] Liquidator.

.....
Payee's signature

Date
19

- Notes: (a) *This is an authority only to deliver the cheque or money order, NOT to make it payable to another person.*
(b) *Strike out words inapplicable. If not to be sent by post strike out words in italics and insert the name of the person who is to receive the cheque or money order.*

(L.N. 50 of 1964)

FORM 72

[rule 142(7)]

AUTHORITY TO LIQUIDATOR TO PAY DIVIDENDS
TO ANOTHER PERSON

(Title)

To the [Official Receiver and] Liquidator.

SIR,

I/We hereby authorize and request you to pay to M
of

(a specimen of whose signature is given below), all dividends as they are declared in the above-named matter, and which may become due and payable to me/us in respect of the proof of debt for the sum of \$, against the above-named company, made [by Mr.] on my/our behalf.

And I/we further request that the cheque or cheques drawn in respect of such dividends may be made payable to the order of the said M whose receipt shall be sufficient authority to you for the issue of such cheque or cheques in his name.

It is understood that this authority is to remain in force until revoked by me/us in writing.

Signatures

Witness to the signature

of

Witness to the signature

of

Date

Specimen of signature of person appointed as above.

Witness to the signature

of

Witness to the signature of person appointed as above.

FORM 73

[rule 143]

NOTICE OF RETURN TO CONTRIBUTORIES

Cheques are cancelled at the expiration of 6 months from date of issue, and money orders at the expiration of 12 months from month of issue.

[Please bring this notice with you.]

(Title)

Return of \$

per share.

[Address]

[Date]

Notice is hereby given that a _____ return of
per share has been declared in this matter, and that the same may be received at my office, as above,
on _____ the _____ day of _____, 19_____,
or on any subsequent day, except Saturday, between the hours of _____

Upon applying for payment **this notice must be produced entire**, together with the share certificate. If you do not attend personally you must forward the share certificate and fill up and sign the subjoined forms of RECEIPT and AUTHORITY TO DELIVER, when a cheque or money order payable to your order will be delivered in accordance with the AUTHORITY.

(Signed)

liquidator

NOTE-The receipt should be signed by the contributory personally, or in the case of joint contributories by each, and in the case of a limited company by an officer of the company, so described.

RECEIPT

No.

Received of the _____ 19_____.
dollars _____ in this matter the sum of _____

and cents _____ being the amount payable to _____
in respect of the _____ return of _____
held by _____ in this company.

Contributory's signature

\$ _____

AUTHORITY FOR DELIVERY

SIR,

PLEASE deliver to

(Insert the name of the person who is to receive the cheque or money order, or the words "me/us by post," at "my/our risk", if you wish it sent to you in that way.)

the cheque or money order for the return payable to me/us in this matter.

Contributory's signature

To the [Official Receiver and] Liquidator.

FORM 74

[rule 143]

SCHEDULE OR LIST OF CONTRIBUTORIES HOLDING PAID-UP SHARES TO WHOM A RETURN IS TO BE PAID ^(a)

In the matter of _____ No. _____ of _____
19_____.

Number in	Name of contributory as in settled List	Address	Number of shares held as per settled	Total called-up value	Total paid-up value	Arrears of calls at date of	Previous return of capital appropriated by liquidator	Amount of return payable at	Net return payable	Date and particulars of transfer of interest or other
-----------	---	---------	--------------------------------------	-----------------------	---------------------	-----------------------------	---	-----------------------------	--------------------	---

last known addresses of such creditors.

3. That the notices for contributories were addressed to the contributories respectively according to their respective names and registered or last known addresses appearing in the register of the company.

4. That I sent the said notices by putting the same prepaid into the post office at before the hour of o'clock in the noon on the said day.

Sworn, &c.

contributories as
the case may be].

FORM 77

[rule 115]

CERTIFICATE OF POSTAGE OF NOTICES (GENERAL)

(Title)

I,
a clerk in the office of the Official Receiver, hereby certify-

1. That I did on the day of , 19 ,
send to ^(a)

a notice of the time and the place of the first meeting, or ^(b)
in the form hereunto annexed marked "A".

[Paragraphs 2, 3 and 4 as in last preceding form.]

Dated this
of , 19 .

Signature
day

(a) Each creditor mentioned in the statement of affairs, or each contributory mentioned in the register of members of the company, *or as the case may be.*
(b) "A general meeting", *or* "adjourned general meeting", *or as the case may be.*

FORM 78

[rule 122]

MEMORANDUM OF ADJOURNMENT OF MEETING

(Title)

Before
on the day of , 19 , at
o'clock.

Memorandum.-The
meeting of ^(b)

in the above matter was held at the time and place above-mentioned; but it
appearing that ^(c) the
meeting was adjourned until the day
of , 19 , at o'clock in the
noon, then to be held at the same place.

Chairman

(a) (a) "First" *or as the case may be.*
(b) Insert "creditors" or "contributories" *as the case may be.*
(c) Here state reason for adjournment.

FORM 79

[rule 118]

AUTHORITY TO DEPUTY TO ACT AS CHAIRMAN OF
MEETING AND USE PROXIES

(Title)

I, _____ the Official Receiver [or
the liquidator] do hereby nominate Mr. _____ of
to be chairman of the meeting of creditors [or contributories] in the above matter, appointed to be
held at _____ on the _____ day of _____, 19____, [and I depute him ^(a) _____
to attend such meeting and use, on my behalf, any proxy or proxies held by me in this matter].
Dated this _____ day of _____, 19____. _____
Receiver, _____
Liquidator _____

(a) Where authority
given by the
Official
Receiver. Here
insert "being a
person under my
official control".

FORM 80

[rule 132]

GENERAL PROXY

(Title)

I/We, _____ of
_____,
a creditor (or contributory) hereby appoint (1) _____ to
be my/our general proxy to vote at the meeting of creditors (or contributories) to be held in the
above matter on the _____ day of _____, _____,
or at any adjournment hereof.

Dated this _____ day
of _____, _____.

(Signed) (2)

*Notes-(1) The person appointed general proxy may be the Official Receiver, the liquidator, or
such other person as the creditor (or contributory) may approve, and the proxy form when signed
must be lodged by the time and at the address named for that purpose in the notice convening the
meeting at which it is to be used.*

*(2) If a firm, sign the firm's trading title, and add "by A.B., a partner in the said firm". If the
appointor is a corporation, then the form of proxy must be under its common seal or under the hand
of some officer duly authorized in that behalf, and the fact that the officer is so authorized must be
stated.*

In a voluntary winding up the liquidator or if there is no liquidator the chairman of a meeting
may but the Official Receiver may not be appointed proxy. The proxy form will be altered
accordingly.

(L.N. 286 of 1997)

SPECIAL PROXY

(Title)

I/We, _____ of
 a creditor (or contributory), hereby appoint (1)
 as my/our proxy at the meeting of creditors (or contributories) to be held on the
 day of _____, or at any adjournment thereof, to vote ^(a) in
 the resolution numbered _____ the case may
 the _____ require, and specify
 the particular
 resolution.

Dated this _____ day
 of _____, _____.

(Signed) (2)

Notes-(1) The person appointed proxy may be the Official Receiver, the liquidator, or such other person as the creditor (or contributory) may approve, and the proxy form when signed must be lodged by the time and at the address named for that purpose in the notice convening the meeting at which it is to be used. A creditor (or contributory) may give a special proxy to any person to vote at any specified meeting or adjournment thereof on all or any of the following matters-

- (a) for or against the appointment or continuance in office of any specified person as liquidator or as member of the committee of inspection;*
- (b) on all questions relating to any matter, other than those above referred to, arising at a specified meeting or adjournment thereof.*

(2) If a firm, sign the firm's trading title, and add "by A.B., a partner in the said firm". If the appointor is a corporation, then the form of proxy must be under its common seal or under the hand of some officer duly authorized in that behalf, and the fact that the officer is so authorized must be stated.

In a voluntary winding up the liquidator or if there is no liquidator the chairman of a meeting may but the Official Receiver may not be appointed proxy. The proxy form will be altered accordingly.

(L.N. 286 of 1997)

 FORMS 82-83
 (Repealed 30 of 1999 s. 44)

 FORMS 84-85
 (Repealed L.N. 247 of 1994)

(Title)

We, the undersigned, members of the committee of inspection in the winding up of the above-named company, hereby certify that we have examined the foregoing account with the vouchers, and that to the best of our knowledge and belief the said account contains a full, true, and complete account of the liquidator's receipts and payments.

Dated this _____ day
of _____, 19____.

_____ }
Committee of Inspection.

FORM 87
(Repealed L.N. 247 of 1994)

FORM 88 [rule 163]

LIQUIDATOR'S TRADING ACCOUNT UNDER SECTION 203

(Title)

G.H. the liquidator of the above-named company in account with the estate.

RECEIPTS

PAYMENTS

Dr.

Cr.

<i>Date</i>				<i>Date</i>			

Liquidator
(Date)

We have examined this account with the vouchers and find the same correct, and we are of opinion the expenditure has been proper.

Dated this _____ day
of _____, 19____.

Committee of Inspection
[or member of the Committee of Inspection]

FORM 89
(Repealed L.N. 247 of 1994)

FORM 90

[rule 169]

REQUEST TO DELIVER BILL FOR TAXATION

(Title)

I hereby request that you will, within days of this date, or such further time as the court may allow, deliver to me for taxation by the proper officer your bill of costs [or charges] as ^(a) failing which, I shall, in pursuance of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32) and rules proceed to declare and distribute a dividend without regard to any claim which you may have against the assets of the company, and your claim against the assets of the company will be liable to be forfeited.

(a) Here state nature of employment.

Dated this _____ day
of _____, 19 ____.

(28 of 2012 ss. 912 & 920)

FORM 91

[rule 174]

CERTIFICATE OF TAXATION

(Title)

I hereby certify that I have taxed the bill of costs [or charges] [or expenses] of Mr. C.D. [here state capacity in which employed or engaged] [where necessary add "pursuant to an order of the court dated the _____ day of _____, 19 ____"], and have allowed the same at the sum of \$ [where necessary add "which sum is to be paid to the said C.D. by as directed by the said order"].

Dated this _____ day
of _____, 19 ____.

Registrar

\$ _____

STATEMENT OF RECEIPTS AND PAYMENTS AND GENERAL
DIRECTION AS TO STATEMENTS

(Name of company)

(1) Every statement must be on sheets 210 x 297 mm in size.

Size of sheets.
Form and contents
of statement.

(2) Every statement must contain a detailed account of all the liquidator's realizations and disbursements in respect of the company. The statement of realizations should contain a record of all receipts derived from assets existing at the date of the winding-up order or resolution and subsequently realized, including balance in bank, book debts and calls collected, property sold, &c.; and the account of disbursements should contain all payments for costs and charges, or to creditors, or contributories. Where property has been realized, the gross proceeds of sale must be entered under realizations, and the necessary payments incidental to sales must be entered as disbursements. These accounts should not contain payments into the companies liquidation account (except unclaimed dividend-*see* para. 5) or payments into or out of bank, or temporary investments by the liquidator, or the proceeds of such investments when realized, which should be shown separately-

- (a) by means of the bank pass book;
- (b) by a separate detailed statement of moneys invested by the liquidator, and investments realized.

Interest allowed or charged by the bank, bank commission, &c., and profit or loss upon the realization of temporary investments, should, however, be inserted in the accounts of realizations or disbursements, as the case may be. Each receipt and payment must be entered in the account in such a manner as sufficiently to explain its nature. The receipts and payments must severally be added up at the foot of each sheet, *and the totals carried forward from one account to another without any intermediate balance, so that the gross totals shall represent the total amounts received and paid by the liquidator respectively.*

(3) When the liquidator carries on a business, a trading account must be forwarded as a distinct account, and the totals of receipts and payments on the trading account must alone be set out in the statement. Trading account.

(4) When dividends or instalments of compositions are paid to creditors, or a return of surplus assets is made to contributories, the total amount of each dividend, or instalment of composition, or return to contributories, actually paid, must be entered in the statement of disbursements as one sum; and the liquidator must forward separate accounts showing in lists the amount of the claim of each creditor, and the amount of dividend or composition payable to each creditor, and of surplus assets payable to each contributory, distinguishing in each list the dividends or instalments of composition and shares of surplus assets actually paid and those remaining unclaimed. Each list must be on sheets 210 x 297 mm in size. Dividends, etc.

(5) When unclaimed dividends, instalments of compositions or returns of surplus assets are paid into the companies liquidation account, the total amount so paid in should be entered in the statement of disbursements as one sum.

(6) Credit should not be taken in the statement of disbursements for any amount in respect of liquidator's remuneration unless it has been duly allowed by resolution of the committee of inspection or of the creditors or of the company in general meeting, or by order of court as the case may require.

LIQUIDATOR'S STATEMENT OF ACCOUNT

Pursuant to section 284 of the Companies (Winding Up and Miscellaneous

Provisions) Ordinance (Chapter 32)

Name of company.

Nature of proceedings (whether wound up
by the court, or under the supervision of
the court, or voluntarily). }

Date of commencement of winding up.

Date of which statement is brought down.

Name and address of liquidator.

LIQUIDATOR'S STATEMENT OF ACCOUNT PURSUANT TO SECTION 284 OF
THE COMPANIES (WINDING UP AND MISCELLANEOUS
PROVISIONS) ORDINANCE (Chapter 32)

REALIZATIONS					DISBURSEMENTS				
Date	Of whom received	Nature of assets realized	Amount		Date	Of whom paid	Nature of disbursements	Amount	
		<i>Brought forward</i>	\$	¢			<i>Brought forward</i>	\$	¢
			*						
		<i>Carried forward</i>					<i>Carried forward</i>		

* NOTE-No balance should be shown on this account, but only the total realizations and disbursements, which should be carried forward to the next account.

ANALYSIS OF BALANCE

_____ \$
¢

Total realizations	
" disbursements	
Balance	\$
	¢

The Balance is made up as follows-

1. Cash in hands of liquidator

\$
¢

2. Total payments into Bank, including balance at date of commencement of winding up (*as per Bank Book*)

Total withdrawals from Bank

Balance at Bank

3. Amount in companies liquidation account

4. Amounts invested by liquidator

\$
¢

Less amounts realized from same

Balance

Total balance as shown above

\$

Note-Full details of investments should be given in a separate statement.

Note-The liquidator shall also state-

(1) The amount of the estimated assets and liabilities at the date of the commencement of the winding up.	}	Assets (after deducting amounts charged to secured creditors and debenture holders)...
		\$
	}	Liabilities
		{ secured creditors \$
		debenture holders \$
		unsecured creditors .. \$

(2) The total amount of the capital paid up at the date of the commencement of the winding up.	}	Paid up in cash
		\$
		Issued as paid up otherwise than for cash
		\$

(3) The general description and estimated value of outstanding assets (if any). }

(4) The causes which delay the termination of the winding up. }

(5) The period within which the winding up may probably be completed.

(L. N. 397 of 1984; L.N. 247 of 1994; 28 of 2012 ss. 912 & 920)

FORM 93

[rule 185]

AFFIDAVIT VERIFYING STATEMENT OF LIQUIDATOR'S
ACCOUNT UNDER SECTION 284

(Name of company)

I,
of
the liquidator of the above-named company, make oath and say-That **the account hereunto annexed marked "B", contains a full and true account of my receipts and payments in the winding up of the above-named company, from the* day of 19 , to the day of 19 , inclusive, **and that* I have not, nor has any other person by my order or for my use during such period, received or paid any moneys on account of the said company, **other than and except the items mentioned and specified in the said account.*

I further say that the particulars given in the annexed Form 92, marked "B", with respect to the proceedings in and position of the liquidation, are true to the best of my knowledge and belief.

Sworn at }

* NOTE-If no receipts or payments, strike out the words in italics.

(L.N. 247 of 1994)

FORM 94

[rules 181 and 185]

LIQUIDATOR'S TRADING ACCOUNT UNDER SECTION 284

(Name of company)

Insert here the name
of the company.
Insert here the name
of the liquidator.

the liquidator of the above-named company in account with the estate.

This account is required in duplicate in addition to Form 92.

RECEIPTS

PAYMENTS

UNDISTRIBUTED FUNDS

(Title)

I, _____ of _____ make oath and say that the particulars entered in the statement hereunto annexed, marked "A", are correct, and truly set forth all money in my hands or under my control, representing unclaimed or undistributed assets of the above company, and that the amount due by me to the companies liquidation account in respect of unclaimed dividends and undistributed funds is \$ _____

S

Sworn, &c.

FORM 98

[rule 189]

NOTICE TO CREDITORS AND CONTRIBUTORIES OF INTENTION TO APPLY FOR RELEASE

(Title)

Take notice that I, the undersigned liquidator of the above-named company, intend to apply to the court for my release, and further take notice that any objection you may have to the granting of my release must be notified to the court within 21 days of the date hereof.

A summary of my receipts and payments as liquidator is hereto annexed.

Dated this _____ day
of _____, 19____.

Liquidator

To

Note-Section 205(3) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32), enacts that "An order of the court releasing the liquidator shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the company, or otherwise in relation to his conduct as liquidator, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact."

(28 of 2012 ss. 912 & 920)

FORM 99

[rule 189]

APPLICATION BY LIQUIDATOR TO THE COURT FOR RELEASE

(Title)

I , the liquidator of the above-named company, do hereby report to this Honourable Court as follows-

1. That the whole of the property of the company has been realized for the benefit of the creditors and contributories [and a dividend to the amount of \$ *per cent* has been paid as shown by the statement hereunto annexed, and a return of *per share* has been made to the contributories of the company];

[or That so much of the property of the company as can, according to the joint opinion of myself and the committee of inspection, hereunto annexed, in writing under our hands, be realized without needlessly protracting the liquidation, has been realized, as shown by the statement hereunto annexed, and a dividend to the amount of \$ *per cent* has been paid, together with a return of *per share* to the contributories of the company]; ^(a)

(a) Add if necessary, "That the rights of the contributories between themselves have been adjusted".

2. I hereby make application to this Honourable Court, (i) that it cause a report on my accounts to be prepared, and (ii) that on my complying with all the requirements of the court, it take into consideration the report and make an order granting my release.

Dated this , 19 day of ,

Liquidator
(L.N. 50 of 1964)

FORM 100

[rule 189]

STATEMENT TO ACCOMPANY NOTICE OF APPLICATION FOR RELEASE

(Title)

Statement showing position of company at date of application for release

Dr.			Cr.			
		Receipts			Payments	
		\$	¢		\$	¢
Estimated to produce as per company's statement of affairs				By court fees (including stationery, printing, and postages in respect of contributories, creditors, and debtors, and fee for audit)		
					\$	¢
				Law costs of petition		
				Law costs of solicitor to liquidator		
				Other law costs		
				Liquidator's remuneration,		

	\$	¢		viz.-	\$	¢	
To total receipts from date of winding-up order, viz.- (State particulars under the several headings specified in the statement of affairs.)				per cent on \$ assets realized			
Receipts per trading account				per cent on \$ assets distributed in dividend			
Other receipts				Shorthand writer's charges			
Total				Special manager's charges			
				Person appointed to assist in preparation of statement of affairs			
				Auctioneer's charges as taxed			
				Other taxed costs			
				Costs of possession and maintenance of estate			
				Costs of notices in <i>Gazette</i> and local papers			
				Incidental outlay			
				Total costs and charges	\$		
					\$	¢	
				Creditors, viz.-			
				(a) Preferential			
				(a) Unsecured: dividend of \$			
				per cent			
				The estimate of amount expected to rank for			
				Amount returned to contributories			
				Balance			
					\$		

(a) State number of creditors.

Assets not yet realized, including calls, estimated to produce \$

(Add here any special remarks the liquidator thinks desirable).

Creditors can obtain any further information by inquiry at the office of the liquidator.

Dated this day of , 19 .

(Signature of Liquidator)

(Address)

FORM 101

[rule 201]

REGISTER OF WINDING-UP ORDERS TO BE KEPT IN THE COURT

				Dates of	
--	--	--	--	----------	--

Number of Winding-up Order	Number of Petition	Date of Petition	Date of Winding-up Order	Public Examinations (if any)	Liquidator

FORM 102

[rule 201]

REGISTER OF PETITIONS TO BE KEPT IN THE COURT

No. of Petition	Name of Company	Address of registered office	Description of Company	Date of Petition	Petitioner	Date of Winding-up Order

FORM 103

[rule 202]

NOTICES FOR GAZETTE

(1) NOTICE OF WINDING-UP ORDER

(rule 36(1)(c))

Name of company

Address of registered office

Number of matter

Date of order

Date of presentation of petition*

(* Where it is known that a voluntary winding up preceded the presentation of the petition, the date of the resolution for voluntary winding up should also be given)

(2) NOTICE OF FIRST MEETING

(rule 107)

Name of company

Address of registered office

Number of matter

Creditors, Date

Hour

Place

Contributories, Date

Hour

Place

(3) NOTICE OF DAY APPOINTED FOR PUBLIC EXAMINATION

(rule 55(1))

Name of company	Address of registered office
Number of matter	Date fixed for examination
Names of persons to be examined	H
Place	our

(4) NOTICE OF INTENDED DIVIDEND

(rule 142(1))

Name of company	Address of registered office
Number of matter	Last day for receiving proofs
Name of liquidator	Add
	ress

(5) NOTICE OF DIVIDEND

(rule 142(3))

Name of company	Address of registered office
Number of matter	office
First and final or otherwise	Amount <i>per cent</i>
Where payable	When payable

(6) NOTICE OF RETURN TO CONTRIBUTORIES

(rule 143)

Name of company	Address of registered office
Number of matter	office
First and final or otherwise	Amount per share
Where payable	When payable

(7) NOTICE OF APPOINTMENT OF LIQUIDATOR

(rule 45(5))

Name of company	Address of registered office
Number of matter	office
Address	Liquidator's name
	Date of appointment

(8) NOTICE OF REMOVAL OF LIQUIDATOR

(rule 45(7))

Name of company
Number of matter
Liquidator's address

Address of registered
office
Liquidator's name
Date of removal

(9) NOTICE OF RELEASE OF LIQUIDATOR

(rule 189(2))

Name of company
Number of matter
Liquidator's address

Address of registered
office
Liquidator's name
Date of release

FORM 104

[rule 203]

MEMORANDUM OF ADVERTISEMENT OR GAZETTING

(Title)

Name of paper	Date of issue	Date of filing	Nature of order, &c.

(Signed)

FORM 105

[rule 183(4) and
section 285(1)]

CERTIFICATE OF RECEIPT FOR MONEY PAID INTO COMPANIES
LIQUIDATION ACCOUNT

(Title)

This is to certify that Mr. _____,
liquidator of the above-named company has this day paid into the companies liquidation account
through me the sum of _____
representing unclaimed or undistributed assets of the above-named company or money held by the
company in trust in respect of dividends or other sums due to members of the company.

Dated this _____ day
of _____, 19____.

Chapter:	117	Stamp Duty Ordinance	Gazette Number	Version Date
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Section:	2	Interpretation	E.R. 2 of 2014	10/04/2014
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(1) In this Ordinance, unless the context otherwise requires-

adhesive stamp (黏貼印花) has the meaning assigned to it by section 5(3);

adjudication fee (裁定費) means the adjudication fee prescribed in the Fifth Schedule; (Added 5 of 2000 s. 2)

assessment (評稅) means an assessment made by the Collector under section 13 or 47L as to the amount of stamp duty chargeable on an instrument, and **assessed** (評定) has the corresponding meaning; (Amended 10 of 2013 s. 24)

authorized ATS provider (認可自動化交易服務提供者) means a person authorized under Part III of the Securities and Futures Ordinance (Cap 571) to provide automated trading services within the meaning of Part 2 of Schedule 5 to that Ordinance; (Added 5 of 2002 s. 407)

bearer instrument (不記名文書) means any instrument to bearer by delivery of which any stock can be transferred, but does not include an instrument relating to stock which consists of a loan expressed in terms other than in the currency of Hong Kong except to the extent that the loan is repayable, or may at the option of any person be repaid, in the currency of Hong Kong; (Amended 77 of 1981 s. 2)

bond (債券) is to be construed having regard to section 47E(b); (Added 10 of 2013 s. 24)

buyer's stamp duty (買家印花稅) means buyer's stamp duty chargeable under head 1(1AAB) or (1C) in the First Schedule; (Added 2 of 2014 s. 3)

chargeable (可予徵收、徵收) means chargeable under this Ordinance;

Collector (署長) means the Collector of Stamp Revenue appointed under section 3;

contract note (成交單據) means a contract note required to be made and executed under section 19(1);

conveyance (轉易契) means every instrument (including a surrender) and every decree or order of any court whereby any immovable property is transferred to or vested in any person;

conveyance on sale (售賣轉易契) means every conveyance whereby any immovable property, upon the sale thereof, is transferred to or vested in a purchaser or any other person on his behalf or by his direction, and includes a foreclosure order;

duly stamped (加蓋適當印花), in relation to an instrument, means duly stamped under this Ordinance in respect of the stamp duty chargeable on such instrument;

exchange participant (交易所參與者) means an exchange participant within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571); (Added 12 of 2000 s. 23. Amended 5 of 2002 s. 407)

executed and **execution** (簽立), in relation to an instrument not under seal, mean signed and signature respectively;

foreclosure order (止贖令) means every order or decree for, or having the effect of an order for, foreclosure;

Hong Kong bearer instrument (香港不記名文書) means a bearer instrument issued-

(a) in Hong Kong; or

(b) elsewhere by or on behalf of a body corporate formed, or an unincorporated body of persons established, in Hong Kong;

Hong Kong stock (香港證券) means stock the transfer of which is required to be registered in Hong Kong;

instrument (文書) includes every written document;

instrument of transfer (轉讓文書) means an instrument by means of which any Hong Kong stock is transferred, and includes a letter of renunciation;

Japanese House Registration Office (日本房屋登錄所) means the office in which during the Japanese occupation

of Hong Kong were kept the registers or records of houses and buildings and documents relating thereto;

jobbing business (證券經銷業務) means any business carried on by an exchange participant which is specified as jobbing business by regulations made under section 63; (Amended 12 of 2000 s. 23)

lease (租約) does not include mortgage by demise;

loan capital (借貸資本) means any debenture, debenture stock, corporation stock or funded debt (by whatever name known) issued by any body, whether corporate or unincorporate, or any capital raised by any such body, being capital which is borrowed or has the character of borrowed money, but does not include any such investment which-

- (a) carries a right of conversion into stock or to the acquisition of any stock; or
- (b) carries or has carried a right to interest the amount of which-
 - (i) exceeds a reasonable commercial return on the nominal amount of the capital; or
 - (ii) falls or has fallen to be determined to any extent by reference to the results of, or of any part of, a business or to the value of any property; or
- (c) carries a right on repayment to an amount which exceeds the nominal amount of the capital and is not reasonably comparable with what is generally repayable in respect of a similar nominal amount of capital under the terms of issue of loan capital listed on a recognized stock market; (Amended 77 of 1981 s. 2; 67 of 1989 s. 2; 5 of 2002 s. 407)

recognized exchange company (認可交易所) means a company recognized under section 19(2) of the Securities and Futures Ordinance (Cap 571) as an exchange company for operating a stock market; (Added 5 of 2002 s. 407)

recognized stock market (認可證券市場) has the same meaning as in section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571); (Added 5 of 2002 s. 407)

relevant Ordinance (《有關條例》) means the Companies Ordinance (Cap 32) as in force from time to time before the commencement date* of section 2 of Schedule 9 to the Companies Ordinance (Cap 622); (Added 28 of 2012 ss. 912 & 920)

special stamp duty (額外印花稅) means special stamp duty chargeable under head 1(1AA) or (1B) in the First Schedule; (Added 14 of 2011 s. 3)

stamp (印花) means any of the following-

- (a) an adhesive stamp;
- (b) a stamp (other than an adhesive stamp) used or intended for use for denoting the payment or remission of stamp duty, or the payment or remission of any penalty, or the payment of an adjudication fee, payable under this Ordinance or the fact that any instrument has been presented for adjudication or that it is not chargeable with stamp duty or is duly stamped; (Amended 5 of 2000 s. 2)
- (c) any mark made or indication given by a stamp referred to in paragraph (b);
- (d) an imprint on a contract note to which an agreement under section 5A relates of the amount of the stamp duty chargeable thereon together with an imprint made under section 5(2A)(b) on such note; (Added 85 of 1991 s. 2. Amended L.N. 90 of 1999 and 44 of 1999 s. 13)

stamp certificate (印花證明書) means a certificate issued by the Collector under Part IIA; (Added 21 of 2003 s. 2)

stamp duty (印花稅) means stamp duty chargeable under this Ordinance and includes additional stamp duty chargeable under section 13(10) or 47L(7), buyer's stamp duty and special stamp duty; (Amended 14 of 2011 s. 3; 10 of 2013 s. 24; 2 of 2014 s. 3)

stamped (加蓋印花、加蓋), in relation to an instrument, means-

- (a) the instrument has been stamped by means of a stamp under this Ordinance; or
- (b) a stamp certificate has been issued in respect of the instrument by the Collector under Part IIA, in so far as the stamp certificate has not been cancelled under that Part; (Replaced 21 of 2003 s. 2)

stock (證券) means any of the following investments-

- (a) any shares, stocks, debentures, loan stocks, funds, bonds or notes of or issued by any body, whether corporate or unincorporate, or any government or local government authority, or any other similar investment of any description;
- (b) any units under a unit trust scheme;
- (c) any right, option or interest in or in respect of any stock referred to in paragraph (a) or (b), other than any such right, option or interest under an employees' share purchase or share option scheme, (Replaced 36 of 1992 s. 2)

but, except for the purposes of section 22, does not include any loan capital, or any bill of exchange or promissory note, or any certificate of deposit within the meaning of section 2 of the Inland Revenue Ordinance (Cap 112) or any Exchange Fund debt instrument or Hong Kong dollar denominated multilateral agency debt instrument within the meaning of that Ordinance, or any bond issued under the Loans Ordinance (Cap 61), or any debentures, loan stocks, funds, bonds or notes denominated otherwise than in the currency of Hong Kong except to the extent that the same shall be redeemable, or may at the option of any person be redeemed, in the currency of Hong Kong; (Amended 77 of 1981 s. 2; 29 of 1984 s. 2; 10 of 1990 s. 2; 43 of 1991 s. 2; 49 of 1991 s. 2; 18 of 1992 s. 2)

time for stamping (加蓋印花期限), in relation to an instrument, has the meaning assigned to it by section 4(2);

unit (單位) and **unit trust scheme** (單位信託計劃) have the meanings assigned thereto respectively by section 30.

(Amended 67 of 1989 s. 2; 12 of 2000 s. 23; 5 of 2002 s. 407)

- (2) Where it is provided in any other Ordinance that stamp duty shall not be payable in respect of any instrument, such instrument shall not be chargeable with stamp duty under this Ordinance.
- (3) Where it is provided in this Ordinance that an instrument shall not be duly stamped unless any condition specified in that provision is fulfilled, the fulfilment of that condition shall not affect the application to that instrument of any other such provision of this Ordinance whereby any other condition is required to be fulfilled in respect of that instrument.
- (4) Until Part IV comes into operation, the definition of **stock** (證券) in subsection (1) shall be construed as if paragraph (b) and references thereto in that definition were omitted.
- (5) If this Ordinance provides for a penalty for a contravention of this Ordinance or an act by reference to a level, the penalty applicable for the contravention or the act is the amount equal to the amount of fine shown for that level in Schedule 8 to the Criminal Procedure Ordinance (Cap 221). (Added 10 of 2013 s. 24)

Note:

* **Commencement date : 3 March 2014.**

Chapter:	117	Stamp Duty Ordinance	Gazette Number	Version Date
Section:	4	Charging of, liability for, and recovery of stamp duty	E.R. 2 of 2014	10/04/2014

- (1) Subject to this Ordinance, every instrument, wherever executed, specified in the First Schedule shall be chargeable with the stamp duty specified in respect thereof in that Schedule, and the headings, notes and explanations in that Schedule shall have effect accordingly.
- (2) Subject to this Ordinance, the time for stamping any instrument shall be the point of time or, as the case may be, the period of time specified in respect thereof in the First Schedule; and where it is provided in that Schedule that the point of time for stamping any instrument is to be before execution, such provision shall not be construed as prohibiting the stamping of such instrument after execution.
- (3) If any instrument chargeable with any stamp duty (other than buyer's stamp duty) is not duly stamped in respect of that duty, the person or persons respectively specified in section 13(10), 19 or 20 or the First Schedule as being liable for stamping such instrument with that duty, and any person who uses such instrument, shall be liable, or jointly and severally liable, as the case may be, civilly to the Collector for the payment of the stamp duty and any penalty payable under section 9, 45(5A)(d) or 47H(3), and may be proceeded against without reference to any civil liability of such person inter se for the payment thereof. (Amended 10 of 2013 s. 25; 2 of 2014 s. 4)
- (3AA) If any instrument chargeable with buyer's stamp duty is not duly stamped in respect of that duty, the person or persons respectively specified in section 13(10) or the First Schedule as being liable for stamping the instrument with that duty—
 - (a) is liable, or are jointly and severally liable, civilly to the Collector for the payment of that duty and any penalty payable under section 9; and
 - (b) (where there is more than one person) may be proceeded against without reference to any civil liability of those persons inter se for the payment of that duty and penalty. (Added 2 of 2014 s. 4)
- (3A) A contract note which is stamped in accordance with section 5(2A) shall, if the amount of the stamp duty imprinted on the note has not been paid to the Collector in the manner provided by an agreement entered into under section 5A, be deemed for the purposes of subsection (3) to be an instrument chargeable with stamp duty

which is not duly stamped. (Added 85 of 1991 s. 3)

- (4) If a contract note is not made and executed as required by section 19(1), the person specified in the First Schedule as being liable for stamping such note shall be liable civilly to the Collector for the payment of the stamp duty chargeable thereon and any penalty payable under section 9.
- (5) No action shall be brought by virtue of subsection (3), (3AA) or (4) or section 45(5A)(c) for the recovery of any stamp duty with respect to any instrument more than 6 years from the expiration of the time for stamping such instrument. (Amended 43 of 1991 s. 3; 2 of 2014 s. 4)
- (5A) No action may be brought because of section 47H(2)(b) for the recovery of any stamp duty with respect to an instrument more than 6 years after the later of the following—
 - (a) the expiry of the time for stamping the instrument;
 - (b) an IA disqualifying event as defined by section 47D(4), or the earliest IA disqualifying event (as the case requires), occurs in relation to the material arrangement. (Added 10 of 2013 s. 25)
- (5B) For the purposes of subsection (5A), an arrangement is the **material arrangement** in relation to an instrument if relief has been granted under section 47F or 47G for the instrument on the basis that the arrangement is a qualified investment arrangement in a specified alternative bond scheme. (Added 10 of 2013 s. 25)
- (6) Notwithstanding anything in this section, the Collector may agree to accept payment of any stamp duty or penalty by instalments.
- (7) The return required by section 45(2) of the relevant Ordinance, or by section 142(1) of the Companies Ordinance (Cap 622), to be delivered to the Registrar of Companies for registration in respect of any contract referred to in section 4(7A)(a) or (b), as the case may be, which is not reduced to writing shall be chargeable with the same stamp duty as would have been payable if the contract had been reduced to writing, and subsections (2), (3), (5) and (6) of this section shall apply to the return as they apply to any such contract in writing. (Amended 28 of 2003 s. 128; 28 of 2012 ss. 912 & 920)
- (7A) The contract referred to in subsection (7) is—
 - (a) a contract mentioned in section 45(1)(b) of the relevant Ordinance; or
 - (b) a contract mentioned in section 142(2)(d)(iii) of the Companies Ordinance (Cap 622). (Added 28 of 2012 ss. 912 & 920)
- (8) Where, after the commencement of this Ordinance, any immovable property or Hong Kong stock is transferred to or vested in any person by virtue of any Ordinance, whether commencing before or after this Ordinance, such person shall within 30 days after the commencement of the Ordinance or the date of vesting, whichever is the later, cause an authentic copy of the Ordinance (including any subsidiary legislation giving effect to the vesting) to be stamped with the stamp duty chargeable on a conveyance or transfer of immovable property or Hong Kong stock as the case may be; and such person shall, for the purposes of subsection (3), be the person liable for stamping with respect to such copy.

Chapter:	117	Stamp Duty Ordinance	Gazette Number	Version Date
Section:	19	Contract notes, etc. in respect of sale and purchase of Hong Kong stock	L.N. 163 of 2013	03/03/2014

- (1) Subject to this section, any person who effects any sale or purchase of Hong Kong stock as principal or agent shall- (Amended 77 of 1981 s. 5)
 - (a) forthwith make and execute a contract note;
 - (b) cause the note to be stamped under head 2(1) or (2) in the First Schedule or, in the case of a note to which section 45 or 47F applies, under section 13(2)- (Amended 43 of 1991 s. 5; 10 of 2013 s. 29)
 - (i) in the case of a sale or purchase effected in Hong Kong, not later than 2 days thereafter;
 - (ii) in any other case, not later than 30 days thereafter;
 - (c) if he is the agent, transmit the stamped note to his principal; (Amended 43 of 1991 s. 5)
 - (d) cause an endorsement to be made on the instrument of transfer of the stock, or cause a stamp certificate to be issued in respect of the instrument, to the effect that- (Amended 21 of 2003 s. 11)
 - (i) stamp duty has been paid on the contract note under head 2(1) or (2) in the First Schedule; or
 - (ii) in the case of a contract note to which section 45 or 47F applies, the contract note has been stamped under section 13(2). (Replaced 43 of 1991 s. 5. Amended 10 of 2013 s. 29)
- (1A) Subsection (1) shall not apply to a sale or purchase of a unit under a unit trust scheme-
 - (a) where the sale or purchase is effected by extinguishing such unit; or

- (b) where the sale or purchase of the unit is effected by the managers under the unit trust scheme and their power to effect such sale or purchase arises-
 - (i) from the transfer to them of that or some other unit within the immediately preceding 2 months; or
 - (ii) otherwise than from a previous transfer to them of that or some other unit. (Added 77 of 1981 s. 5)

(1B) It shall not be obligatory for an endorsement to be made under subsection (1)(d) where, at the time of the sale or purchase of Hong Kong stock-

- (a) the instrument of transfer of such stock is in the custody of a recognized clearing house in accordance with the rules of the clearing house; or
- (b) the Hong Kong stock is registered in the name of a recognized clearing house or its nominee. (Added 40 of 1992 s. 2)

(1C) Subsection (1) shall not apply to a sale or purchase of Hong Kong stock effected under a market contract. (Added 68 of 1992 s. 20)

(1D)(a) Subsection (1) shall not apply to any sale or purchase of Hong Kong stock specified as an exempted transaction in the Fourth Schedule.

- (b) Any transfer made for the purpose of effectuating any sale or purchase of Hong Kong stock specified as an exempted transaction in the Fourth Schedule shall not be chargeable with stamp duty under head 2(4) in the First Schedule. (Added 33 of 1998 s. 6)

(1E)(a) Subject to paragraph (c), in the case of a transaction whereby the beneficial interest in Hong Kong stock passes otherwise than on sale and purchase, where the transaction-

- (i) is not effectuated by way of a transfer chargeable with stamp duty under head 2(3) in the First Schedule, but is effectuated by any other means, whether by electronic means or by means of an entry in any recording or book-keeping system or otherwise; and
- (ii) is effectuated whether under or through a recognized clearing house or any other person or organization,

the transaction shall, for the purposes of this Ordinance, be deemed to be a sale and purchase of Hong Kong stock.

- (b) For the purposes of this section and head 2(1) in the First Schedule, in a transaction which is deemed to be a sale and purchase of Hong Kong stock under paragraph (a)-

- (i) the person disposing of the stock in the transaction shall be deemed to be the person effecting the sale in the sale and purchase;
- (ii) the person acquiring the stock in the transaction shall be deemed to be the person effecting the purchase in the sale and purchase;
- (iii) where the person maintaining the record of the transaction is not the principal effecting the sale and purchase, the person shall, save in the case of a recognized clearing house, be deemed to be the agent effecting the sale and purchase; and
- (iv) the value of the stock in the transaction shall be deemed to be the amount or value of the consideration for the sale and purchase.

- (c) Paragraph (a) shall not apply to a transaction of the kind referred to in that paragraph where the transaction would, if it were effectuated by way of a transfer chargeable with stamp duty under head 2(3) in the First Schedule, be a transfer of the kind referred to in section 27(5). (Added 33 of 1998 s. 6)

(1F) For the purposes of subsection (1), where-

- (a) any sale or purchase of Hong Kong stock is effected by an exchange participant, whether as principal or agent;
- (b) the contract note required to be made under subsection (1) in respect of the sale or purchase is one to which an agreement under section 5A relates; and
- (c) the contract note is made by the exchange participant,

the contract note shall, whether or not it has been executed by the exchange participant, be regarded as having been so executed. (Added L.N. 90 of 1999 and 44 of 1999 s. 17. Amended 12 of 2000 s. 23)

(2) A contract note required to be made under subsection (1) shall state the following-

- (a) whether the person effecting the sale or purchase of the Hong Kong stock is acting as principal or agent and, if as agent, the name of his principal;
- (b) the date of the transaction and of the making of the contract note;

- (c) the quantity and description of such Hong Kong stock;
- (d) the price per unit of such Hong Kong stock and the amount of the consideration or, in the case of an exchange, particulars of the property for which such Hong Kong stock is exchanged; and
- (e) the date of settlement.

(3) No agent or other person shall have any legal claim to any charge for brokerage, commission or agency with reference to the sale or purchase of any Hong Kong stock if he fails to comply with the provisions of this section.

(4) The stamp duty paid in respect of a contract note may be added to any charge for brokerage or agency and shall be recoverable as part of such charge.

(5) Where a contract note relates to the sale or purchase of more than one description of Hong Kong stock, the note shall be deemed to be as many contract notes as there are descriptions of Hong Kong stock sold or purchased.

(6) If in the case of a sale or purchase of any Hong Kong stock effected by a person who is not resident in Hong Kong, the stamp duty specified in head 2(1) in the First Schedule is not paid, there shall be charged on the instrument of transfer, in addition to the stamp duty otherwise chargeable thereon, stamp duty equal to the amount of the stamp duty so payable in respect of such sale or purchase; and in respect of stamp duty charged on an instrument of transfer under this subsection, the transferee shall be the person liable for stamping such instrument and the time for stamping it shall be 30 days after execution thereof.

(7) Where any instrument of transfer is stamped under subsection (6), the Collector shall endorse the instrument, or issue a stamp certificate in respect of the instrument, to that effect in such manner as he may think fit. (Amended 21 of 2003 s. 11)

(8) An instrument of transfer of any Hong Kong stock shall not be duly stamped unless-

- (a) it is endorsed under subsection (1)(d) or (7) in respect of both sale and purchase; (Amended 40 of 1992 s. 2)
- (b) it is endorsed by the Collector in such manner as he may think fit to the effect that-
 - (i) stamp duty has been paid in respect thereof under head 2(3) in the First Schedule; or
 - (ii) no stamp duty is chargeable thereon under subsection (6) or head 2(1) or 2(3) in the First Schedule; or (Amended 43 of 1991 s. 5; 40 of 1992 s. 2)
- (c) the Hong Kong stock is transferred to a recognized clearing house, or its nominee, in accordance with the rules of the clearing house. (Added 40 of 1992 s. 2)

(9) An endorsement under subsection (1) in respect of stamp duty paid-

- (a) under head 2(1) in the First Schedule may be made by the Collector or any person authorized by the Collector in that behalf;
- (b) under head 2(2) in the First Schedule shall be made by the Collector,

in such manner as the Collector may think fit.

(9A) An endorsement under subsection (1)(d)(ii) shall be made by the Collector in such manner as he thinks fit. (Added 43 of 1991 s. 5)

(10) Any person who makes an endorsement for the purposes of subsection (1)(d) which is false in a material particular commits an offence.

(10A) In relation to a sale or purchase of a unit under a unit trust scheme other than a sale or purchase referred to in subsection (1A), the obligations imposed by this section (other than subsection (1)(c)) and head 2(1) in the First Schedule on any person other than the managers under the unit trust scheme shall be carried out by the managers in addition to any obligation so imposed on them, and for that purpose subsection (2)(a) shall not apply. (Added 77 of 1981 s. 5)

(11) Subject to subsections (12), (12A) and (13), nothing in this section shall apply to-

- (a) a stock borrowing; or
- (b) a stock return. (Replaced 67 of 1989 s. 3)

(12) Where, in respect of a stock borrowing-

- (a) the borrower ceases to be required to make a stock return in accordance with the stock borrowing and lending agreement to which the stock borrowing relates, in respect of the borrowed stock or part thereof or its reasonable equivalent (other than that which is the subject of the stock return referred to in paragraph (c)), pursuant to the stock borrowing and lending agreement or to any other agreement reached with the lender of the borrowed stock (whether by settlement or otherwise); (Replaced L.N. 90 of 1999 and 44 of 1999 s. 17)
- (b) the borrowed stock or part thereof or its reasonable equivalent was used for a purpose other than a specified purpose; or (Amended L.N. 90 of 1999 and 44 of 1999 s. 17)
- (c) the borrower fails to comply with any demand made by the lender of the borrowed stock under the

stock borrowing and lending agreement to which the stock borrowing relates to make a stock return in respect of the borrowed stock or part thereof or its reasonable equivalent, such stock borrowing shall, for the purposes of this Ordinance, be deemed to be a sale and a purchase of-

- (i) where paragraph (a) applies, the borrowed stock or part thereof, or the reasonable equivalent, which is the subject of the stock return the borrower ceases to be required to make as described in that paragraph;
- (ii) where paragraph (b) applies, the borrowed stock or part thereof which, or the borrowed stock or part thereof the reasonable equivalent of which, was used for a purpose other than a specified purpose as described in that paragraph; or
- (iii) where paragraph (c) applies, the borrowed stock or part thereof, or the reasonable equivalent, which is the subject of the stock return referred to in that paragraph. (Amended L.N. 90 of 1999 and 44 of 1999 s. 17)

(12AA) This Ordinance, except subsection (1)(d), shall apply to the sale and purchase referred to in subsection (12) as if that sale and purchase were effected in Hong Kong-

- (a) by the borrower who obtained the relevant borrowed stock;
- (b) on the specified day; and
- (c) for a consideration calculated at the previous closing price of Hong Kong stock of the same description as the stock which is the subject of the sale and purchase or, if there is more than one description of the stock, at their respective previous closing prices as quoted on the relevant recognized stock market. (Added L.N. 90 of 1999 and 44 of 1999 s. 17. Amended 5 of 2002 s. 407)

(12A) Subsection (11) shall not apply to any stock borrowing or stock return, unless-

- (a) an executed copy of the stock borrowing and lending agreement under which the stock borrowing and stock return are provided for, or a copy of the stock borrowing and lending agreement which is shown to the satisfaction of the Collector as a true copy thereof;
- (b) such fee as may be specified by the Financial Secretary for the purposes of this subsection by notice in the Gazette; and
- (c) such other documents, and such particulars and information as the Collector may require,

are provided by the borrower to the Collector at any time after the stock borrowing and lending agreement is executed but before the expiry of 30 days after the stock borrowing is effected. (Replaced L.N. 90 of 1999 and 44 of 1999 s. 17)

(13) A borrower who has effected any stock borrowings under a stock borrowing and lending agreement, an executed copy of which has been provided to the Collector in accordance with subsection (12A), shall- (Amended 33 of 1998 s. 6)

- (a) keep a book in such form;
- (b) enter in such book, in respect of such stock borrowings and any stock returns made in respect of such stock borrowings, such particulars; and
- (c) furnish to the Collector a return-
 - (i) in such form;
 - (ii) containing such particulars in respect of such book; and
 - (iii) at such times,

as the Collector may require. (Added 67 of 1989 s. 3)

(14) A borrower who, with intent to defraud the Government of any stamp duty, causes or allows-

- (a) an entry to be made in a book kept under subsection (13)(a); or
- (b) any particular to be furnished in a return made to the Collector under subsection (13)(c),

which he knows or has reasonable grounds for believing to be false or misleading in a material respect commits an offence. (Replaced 70 of 1994 s. 4)

(15) A borrower who fails to comply with the requirements of subsection (13) shall incur a penalty at level 2 which shall be recoverable by the Collector as a civil debt due to the Government. (Replaced 70 of 1994 s. 4. Amended L.N. 338 of 1995; 12 of 1999 s. 3)

(16) In this section-

"allotment" (分配), in relation to units under a unit trust scheme, means the issue of such units;

"borrowed stock" (被借用證券), in relation to a stock borrowing, means any Hong Kong stock obtained by a borrower under such stock borrowing; (Replaced 70 of 1994 s. 4)

"borrower" (借用人), means a person who is eligible to obtain Hong Kong stock under a stock borrowing and lending

- agreement; (Added 70 of 1994 s. 4. Amended 33 of 1998 s. 6)
- "lender" (借出人) means a person who is eligible to lend Hong Kong stock under a stock borrowing and lending agreement; (Added 70 of 1994 s. 4. Amended 33 of 1998 s. 6)
- "market contract" (市場合約) means a market contract within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571); (Added 68 of 1992 s. 20. Amended 62 of 1995 s. 12; 5 of 2002 s. 407)
- "previous closing price" (先前收市價格), in relation to Hong Kong stock, means the previous closing price of such Hong Kong stock as determined in accordance with the rules and practices of the recognized exchange company that operates the relevant stock market; (Amended 5 of 2002 s. 407)
- "reasonable equivalent" (合理對等項目), in relation to any stock obtained pursuant to the provisions referred to in paragraph (a)(i)(A) or (b)(i)(A) of the definition of "stock borrowing and lending agreement", means any stock or monies which, in the opinion of the Collector, can, as a result of the occurrence of a relevant event, be reasonably and fairly be regarded as the equivalent of the stock so obtained; (Added L.N. 90 of 1999 and 44 of 1999 s. 17)
- "recognized clearing house" (認可結算所) means a recognized clearing house within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571); (Replaced 68 of 1992 s. 20. Amended 62 of 1995 s. 12; 5 of 2002 s. 407)
- "relevant event" (有關事件), in relation to any stock obtained pursuant to the provisions referred to in paragraph (a)(i)(A) or (b)(i)(A) of the definition of "stock borrowing and lending agreement", means-
- (a) the exercise of any of the powers conferred by section 53(1)(a) to (d) of the relevant Ordinance; (Replaced 28 of 2012 ss. 912 & 920)
 - (ab) the exercise of any of the powers conferred by section 170(2)(a) to (e) and 174(1) of the Companies Ordinance (Cap 622); or (Added 28 of 2012 ss. 912 & 920)
 - (b) any other event,
- which, in the opinion of the Collector, makes any requirement to return stock of the same quantity and description as the stock so obtained either impracticable or inappropriate; (Added L.N. 90 of 1999 and 44 of 1999 s. 17)
- "rules" (規章), in relation to a recognized clearing house and a recognized exchange company, has the same meaning as it has in relation to those bodies in section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571); (Replaced 5 of 2002 s. 407)
- "sale or purchase" (售賣或購買) includes any disposal or acquisition (other than an allotment) for valuable consideration, and exchange, and any transaction in respect of which an instrument is deemed by virtue of section 30(3), (4) or (5) to be a transfer by way of sale, and any reference to "sale" (售賣) or "purchase" (購買) shall be construed accordingly;
- "specified day" (指明日期), in relation to a stock borrowing, means-
- (a) where subsection (12)(a) applies, the day on which the borrower ceases to be required to make a stock return as described in that subsection;
 - (b) where subsection (12)(b) applies, the day on which the borrowed stock referred to in that subsection was obtained under the stock borrowing and lending agreement to which the stock borrowing relates; or
 - (c) where subsection (12)(c) applies, the day on which the borrower fails to comply with any demand as described in that subsection; (Replaced L.N. 90 of 1999 and 44 of 1999 s. 17)
- "specified payment" (指明付款), in relation to any stock, means a payment of an amount equivalent to the amount of any dividend, interest and other distribution payable in respect of the stock or its reasonable equivalent or both by the issuer of the stock or its reasonable equivalent or by any other person to the holder of the stock or its reasonable equivalent during the period after the stock is obtained pursuant to the provisions referred to in paragraph (a)(i)(A) or (b)(i)(A) of the definition of "stock borrowing and lending agreement" and before a return or delivery is required to be made in accordance with the provisions referred to in paragraph (a)(i)(B) or (b)(i)(B) of that definition; (Added L.N. 90 of 1999 and 44 of 1999 s. 17)
- "specified purpose" (指明用途), in relation to the borrowing of stock by any person, means-
- (a) the settling of a sale of Hong Kong stock wherever effected, whether by the person himself or another person;

- (b) the settling of a future sale of Hong Kong stock, whether agreed or not when such borrowing is effected and whether by the person himself or another person;
- (c) the replacement, in whole or in part, of Hong Kong stock obtained by the person under another stock borrowing;
- (d) the on-lending of the stock borrowed to another person who effects a stock borrowing in respect of such stock on-lent; or
- (e) such other purpose as the Collector may, in writing, allow either generally or in any particular case; (Added 70 of 1994 s. 4. Amended 33 of 1998 s. 6)

"stock borrowing" (證券借用) means the obtaining by a borrower from a lender, under a stock borrowing and lending agreement, of Hong Kong stock the sale and purchase of which in Hong Kong are subject to the rules and practices of the recognized exchange company that operates the relevant stock market, whether the Hong Kong stock is so obtained- (Amended L.N. 90 of 1999 and 44 of 1999 s. 17; 5 of 2002 s. 407)

- (a) directly from the lender; or
- (b) indirectly under or through a recognized clearing house and in accordance with the rules of that recognized clearing house which constitute the stock borrowing and lending agreement; (Replaced 70 of 1994 s. 4. Amended 33 of 1998 s. 6)

"stock borrowing and lending agreement" (證券借用及借出協議) means-

- (a) an agreement which-
 - (i) contains-
 - (A) provisions providing for the obtaining of any stock by a person from any other person;
 - (B) provisions requiring-
 - (I) the return of stock of the same quantity and description as the stock obtained pursuant to the provisions referred to in sub-subparagraph (A); or
 - (II) the delivery of the reasonable equivalent of the stock so obtained; and
 - (C) provisions which-
 - (I) require a specified payment to be made by the person by whom the stock is obtained pursuant to the provisions referred to in sub-subparagraph (A) to the person from whom the stock is obtained pursuant to the provisions; or
 - (II) provide for an arrangement which, in the opinion of the Collector, can be regarded as a fair and proper alternative to the requirement to make the specified payment; and
 - (ii) does not, in the opinion of the Collector, have the effect of reducing the risk of loss or opportunity for gain, in respect of the stock, of the person from whom the stock is obtained pursuant to the provisions referred to in subparagraph (i)(A); or
- (b) the rules of a recognized clearing house which-
 - (i) contain the following provisions approved by the Collector-
 - (A) provisions providing for the obtaining of any stock by a participant of the clearing system of the recognized clearing house from any other participant of such clearing system;
 - (B) provisions requiring-
 - (I) the return of stock of the same quantity and description as the stock obtained pursuant to the provisions referred to in sub-subparagraph (A); or
 - (II) the delivery of the reasonable equivalent of the stock so obtained; and
 - (C) provisions which-
 - (I) require a specified payment to be made by the participant by whom the stock is obtained pursuant to the provisions referred to in sub-subparagraph (A) to the participant from whom the stock is obtained pursuant to the provisions; or
 - (II) provide for an arrangement which, in the opinion of the Collector, can be regarded as a fair and proper alternative to the requirement to make the specified payment;
 - (ii) do not, in the opinion of the Collector, have the effect of reducing the risk of loss or opportunity for gain, in respect of the stock, of the person from whom the stock is obtained pursuant to the provisions referred to in subparagraph (i)(A); and
 - (iii) are subscribed to by participants of the clearing system of the recognized clearing house as a precondition for their obtaining of any stock within the meaning of subparagraph (i)(A); (Replaced L.N. 90 of 1999 and 44 of 1999 s. 17)

"stock return" (證券交還), in relation to a stock borrowing, means a transaction by which a borrower, in accordance

with the stock borrowing and lending agreement to which the stock borrowing relates-

- (a) returns any stock which is of the same description as the borrowed stock (other than that which is the subject of a sale and purchase referred to in subsection (12)); or
- (b) delivers any reasonable equivalent of the borrowed stock (other than that which is the subject of a sale and purchase referred to in subsection (12)),

whether or not the return or delivery is made- (Amended L.N. 90 of 1999 and 44 of 1999 s. 17)

- (i) directly to the lender; or
- (ii) indirectly under or through a recognized clearing house and in accordance with the rules of that recognized clearing house which constitute the stock borrowing and lending agreement; (Replaced 70 of 1994 s. 4. Amended 33 of 1998 s. 6)

"transaction" (交易), in relation to a stock return, includes the return by a borrower to a lender of a lesser quantity of stock than that obtained by him on the day that the borrowed stock was so obtained. (Added 70 of 1994 s. 4)
(Amended 70 of 1994 s. 4)

Chapter:	117	Stamp Duty Ordinance	Gazette Number	Version Date
Section:	58A	Representations may be made to Collector before certain penalties are imposed	E.R. 2 of 2014	10/04/2014

- (1) Before taking any action under section 5A(4), 15(2), 19(15), 37, 45(7), 47H(5), 47J(6) or 58 against a person, the Collector shall- (Amended 70 of 1994 s. 8; 10 of 2013 s. 31)
 - (a) by notice served personally or by post on that person, inform him of the grounds on which the Collector proposes to take such action; and
 - (b) afford that person an opportunity of giving an explanation in writing as to why the Collector should not take such action.
- (2) The Collector shall not take any action under any of the provisions referred to in subsection (1) against a person if the Collector is satisfied with an explanation given by that person as to why the Collector should not take such action.

(Added 67 of 1989 s. 4)

Chapter:	117	Stamp Duty Ordinance	Gazette Number	Version Date
Section:	58B	Remission of certain penalties	E.R. 2 of 2014	10/04/2014

The Collector may remit wholly or in part any penalty recoverable under section 5A(4), 15(2), 19(15), 37, 45(7), 47H(5), 47J(6) or 58.

(Added 70 of 1994 s. 9. Amended 10 of 2013 s. 32)

Chapter:	117	Stamp Duty Ordinance	Gazette Number	Version Date
Schedule:	1		10 of 2013	19/07/2013

[sections 2, 4, 5, 5A, 13, 18D, 19, 19A, 20, 29, 29A, 29C, 29CA, 29CB, 29CC, 29D, 29DA, 29DB, 29DC, 29G, 29H, 30, 44, 45, 47B, 47F, 47G, 63A & 70 & 2nd Schedule & Schedule 7]

(Replaced 14 of 2011 s. 15. Amended 10 of 2013 s. 34; 2 of 2014 s. 20)

Nature of Instrument				(A) Stamp Duty (B) Time for stamping (C) Persons liable
HEAD 1:	IMMOVABLE	PROPERTY	IN	

HONG KONG

Agreement for Lease,

See LEASE and section 16

Agreement or Contract for Sale of equitable interest,

See AGREEMENT FOR SALE and section 29E,

and CONVEYANCE ON SALE and section 26

(1) CONVEYANCE ON SALE

(a) where the amount or value of the consideration does not exceed \$2000000 and the instrument is certified in accordance with section 29 at \$2000000

(b) where the amount or value of the consideration exceeds \$2000000 but does not exceed \$2351760 and the instrument is certified in accordance with section 29 at \$2351760

(c) where the amount or value of the consideration exceeds \$2351760 but does not exceed \$3000000 and the instrument is certified in accordance with section 29 at \$3000000

(d) where the amount or value of the consideration exceeds \$3000000 but does not exceed \$3290320 and the instrument is certified in accordance with section 29 at \$3290320

(A) (a)

(b) \$100 plus 10% of the amount by which the amount or value of the consideration exceeds \$2000000
(Replaced L.N. 32 of 2007 and 13 of 2007 s. 3)

(c) 1.5% of the amount or value of the consideration
(Replaced L.N. 32 of 2007 and 13 of 2007 s. 3)

(d) \$45000 plus 10% of the amount by which the amount or value of the consideration exceeds \$3000000
(Replaced L.N. 90 of 1999 and 44 of 1999 s. 22. Amended L.N. 32 of 2007 and 13 of 2007 s. 3)

(e) where the amount or value of the consideration exceeds \$3290320 but does not exceed \$4000000 and the instrument is certified in accordance with section 29 at \$4000000	(e) 2.25% of the amount or value of the consideration (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22. Amended L.N. 32 of 2007 and 13 of 2007 s. 3)
(f) where the amount or value of the consideration exceeds \$4000000 but does not exceed \$4428570 and the instrument is certified in accordance with section 29 at \$4428570	(f) \$90000 plus 10% of the amount by which the amount or value of the consideration exceeds \$4000000 (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22. Amended L.N. 32 of 2007 and 13 of 2007 s. 3)
(g) where the amount or value of the consideration exceeds \$4428570 but does not exceed \$6000000 and the instrument is certified in accordance with section 29 at \$6000000	(g) 3% of the amount or value of the consideration (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22. Amended L.N. 32 of 2007 and 13 of 2007 s. 3)
(h) where the amount or value of the consideration exceeds \$6000000 but does not exceed \$6720000 and the instrument is certified in accordance with section 29 at \$6720000	(h) \$180000 plus 10% of the amount by which the amount or value of the consideration exceeds \$6000000 (Added L.N. 90 of 1999 and

- (i) where the amount or value of the consideration exceeds \$6720000 but does not exceed \$20000000 and the instrument is certified in accordance with section 29 at \$20000000
- (j) where the amount or value of the consideration exceeds \$20000000 but does not exceed \$21739120 and the instrument is certified in accordance with section 29 at \$21739120
- (k) in any other case

And see sections 2, 4, 22, 23, 24, 25, 26, 27, 28, 29, 39, 43, 44 and 45

Note 1

This sub-head shall apply in relation to the stamp duty chargeable by reference to it by virtue of sub-head (2)(a), in a case where part of the consideration for a lease consists of rent, as if paragraphs (a) to (j) and the words "in any other case" in paragraph (k) were omitted

44 of 1999 s. 22. Amended L.N. 32 of 2007 and 13 of 2007 s. 3)

- (i) 3.75% of the amount or value of the consideration (Replaced L.N. 18 of 2010 and 16 of 2010 s. 4)
- (j) \$750000 plus 10% of the amount by which the amount or value of the consideration exceeds \$20000000 (Added L.N. 18 of 2010 and 16 of 2010 s. 4)
- (k) 4.25% of the amount or value of the consideration (Added L.N. 18 of 2010 and 16 of 2010 s. 4)
- (B) 30 days after the execution; but see Note 2 to this sub-head
- (C) persons executing; but see Note 2 to this sub-head (Replaced 36 of 1994 s. 3)

(Amended L.N. 90 of 1999 and 44 of 1999 s. 22; L.N. 32 of 2007 and 13 of 2007 s. 3; L.N. 18 of 2010 and 16 of 2010 s. 4)

Note 2

In the case of a vesting order consequential upon an order for sale or partition or a foreclosure order, the time for stamping shall be before the order is signed by the Registrar and the persons liable shall be the persons obtaining the order

Note 3

In the case of a foreclosure order, the stamp duty chargeable thereon shall not exceed the stamp duty which would be chargeable thereon by reference to the value of the property to which the order relates

Note 4

A foreclosure order shall not be duly stamped unless the Collector has stamped it under section 13(3)(b)

Note 5

In the case of a conveyance on sale of residential property executed after a chargeable agreement for sale has been made in respect of that property, this sub-head is subject to section 29D (Added 8 of 1992 s. 6)

Note 6

(Repealed 33 of 1998 s. 11)

Exchange, Instruments effecting-see section 25(7)

(1AA) CONVEYANCE ON SALE CHARGEABLE WITH SPECIAL STAMP DUTY

Part 1—for residential property acquired on or after 20 November 2010 but before 27 October 2012 (Added 2 of 2014 s. 20)

- (a) if the residential property is disposed of within a period of 6 months beginning on the day on which it was acquired
- (b) if the residential property is disposed of within a period of 12 months beginning on the day on which it was acquired, but after the expiry of a period of 6 months beginning on that day
- (c) if the residential property is disposed of within a period of 24 months beginning on the day on which it was acquired, but after the expiry of a period of 12 months beginning on that day

- (A) (a)
- (b) 10% of the amount or value of the consideration
- (c) 5% of the amount or value of the consideration
- (B) The same time as that which applies to a conveyance on sale

Part 2—for residential property acquired on or after 27 October 2012

- (a) if the residential property is disposed of within a period of 6 months beginning on the day on which it was acquired
- (b) if the residential property is disposed of within a period of 12 months beginning on the day on which it was acquired, but after the expiry of a period of 6 months beginning on that day
- (c) if the residential property is disposed of within a period of 36 months beginning on the day on which it was acquired, but after the expiry of a period of 12 months beginning on that day

(Added 2 of 2014 s. 20)

Note 1

This sub-head is subject to sections 29D and 29DA

Note 2

- (a) If only part of the residential property is disposed of within a period specified in the first column of this sub-head, the special stamp duty chargeable under this sub-head is the percentage (specified opposite to that period) of the amount or value of the consideration for that part as indicated by the parties to the conveyance on sale concerned to the Collector (*part consideration*)

specified under sub-head (1)

- (C) The same parties as those who are liable in respect of a conveyance on sale specified under sub-head (1)

- (A) (a)

- (b) 15% of the amount or value of the consideration

- (c) 10% of the amount or value of the consideration

- (B) The same time as that which applies to a conveyance on sale specified under sub-head (1)

- (C) The same parties as those who are liable in respect of a conveyance on sale specified under sub-head (1)

- (b) If different parts of the residential property are disposed of within different periods specified in the first column of this sub-head, the special stamp duty chargeable in respect of any of those parts under this sub-head is the percentage (specified opposite to the period applicable to that part) of the amount or value of the consideration for that part as indicated by the parties to the conveyance on sale concerned to the Collector (*part consideration*), and the special stamp duty chargeable in respect of the property under this sub-head is the total of the special stamp duty chargeable in respect of those parts
- (c) If the Collector is of the opinion that the part consideration does not represent the value of the part concerned, the Collector may substitute that value for the part consideration for the purpose of the calculation of special stamp duty chargeable under this sub-head

(Added 14 of 2011 s. 15)

(1AAB) CONVEYANCE ON SALE CHARGEABLE WITH BUYER'S STAMP DUTY

- (A) 15% of the amount or value of the consideration
- (B) The same time as that which applies to a conveyance on sale specified under sub-head (1)
- (C) The transferee

Note

This sub-head is subject to sections 29D, 29DB and 29DC
(Added 2 of 2014 s. 20)

(1A) AGREEMENT FOR SALE

- (a) where the amount or value of the consideration does not exceed \$2000000 and the instrument is certified in accordance with section 29G at \$2000000
- (b) where the amount or value of the consideration exceeds \$2000000 but does not exceed \$2351760 and the instrument is certified in accordance with section 29G at \$2351760

- (A) (a)
- (b) \$100 plus 10% of the amount by which the amount or value of the consideration exceeds \$2000000

- (c) where the amount or value of the consideration exceeds \$2351760 but does not exceed \$3000000 and the instrument is certified in accordance with section 29G at \$3000000
- (d) where the amount or value of the consideration exceeds \$3000000 but does not exceed \$3290320 and the instrument is certified in accordance with section 29G at \$3290320
- (e) where the amount or value of the consideration exceeds \$3290320 but does not exceed \$4000000 and the instrument is certified in accordance with section 29G at \$4000000
- (f) where the amount or value of the consideration exceeds \$4000000 but does not exceed \$4428570 and the instrument is certified in accordance with section 29G at \$4428570

- (c) 1.5% of the amount or value of the consideration
(Replaced L.N. 32 of 2007 and 13 of 2007 s. 3)
- (d) \$45000 plus 10% of the amount by which the amount or value of the consideration exceeds \$3000000
(Replaced L.N. 90 of 1999 and 44 of 1999 s. 22. Amended L.N. 32 of 2007 and 13 of 2007 s. 3)
- (e) 2.25% of the amount or value of the consideration
(Replaced L.N. 90 of 1999 and 44 of 1999 s. 22. Amended L.N. 32 of 2007 and 13 of 2007 s. 3)
- (f) \$90000 plus 10% of the amount by which the amount or value of the consideration exceeds \$4000000
(Replaced L.N. 90 of 1999 and 44 of

	1999 s. 22. Amended L.N. 32 of 2007 and 13 of 2007 s. 3)
(g) where the amount or value of the consideration exceeds \$4428570 but does not exceed \$6000000 and the instrument is certified in accordance with section 29G at \$6000000	(g) 3% of the amount or value of the consideration (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22. Amended L.N. 32 of 2007 and 13 of 2007 s. 3)
(h) where the amount or value of the consideration exceeds \$6000000 but does not exceed \$6720000 and the instrument is certified in accordance with section 29G at \$6720000	(h) \$180000 plus 10% of the amount by which the amount or value of the consideration exceeds \$6000000 (Added L.N. 90 of 1999 and 44 of 1999 s. 22. Amended L.N. 32 of 2007 and 13 of 2007 s. 3)
(i) where the amount or value of the consideration exceeds \$6720000 but does not exceed \$20000000 and the instrument is certified in accordance with section 29G at \$20000000	(i) 3.75% of the amount or value of the consideration (Replaced L.N. 18 of 2010 and 16 of 2010 s. 4)
(j) where the amount or value of the consideration exceeds \$20000000 but does not exceed \$21739120 and the instrument is certified in accordance with section 29G at \$21739120	(j) \$750000 plus 10% of the amount by which the amount or value of the consideration exceeds \$20000000 (Added L.N. 18 of 2010 and 16

(k) in any other case

of 2010 s. 4)
(k) 4.25% of the
amount or value
of the
consideration
(Added L.N. 18
of 2010 and 16
of 2010 s. 4)

*(B) 30 days after the
relevant date
(within the
meaning of section
29B(3)); but see
Notes 2 and 3 to
this sub-head
(Amended L.N. 90
of 1999 and 44 of
1999 s. 22; 14 of
2011 s. 15)

(C) All parties except a
party who on the
relevant date
(within the
meaning of section
29B(3)) does not
know that the
agreement affects
him, and all other
persons executing
(Replaced 36 of
1994 s. 3)

And see section 4 and Part IIIA

Note 1

This sub-head does not apply to an agreement
for sale in respect of non-residential property
(see section 29A(5))

Note 2

If, within the first 14 days of the time for
stamping, an agreement for sale is superseded
by another agreement for sale made between the
same parties and on the same terms, executed in
accordance with section 29B(1), and containing
the matters specified in section 29B(5)-

(aa) for the purposes of Part IIIA and this
sub-head, the second-mentioned
agreement is deemed to be made on the
relevant date (within the meaning of
section 29B(3)); (Added L.N. 90 of
1999 and 44 of 1999 s. 22)

*(a) notwithstanding paragraph (aa), the
time for stamping the second-mentioned
agreement is not later than 30 days after

it was executed; and (Amended L.N. 90 of 1999 and 44 of 1999 s. 22; 14 of 2011 s. 15)

- *(b) if the second-mentioned agreement is duly stamped or stamped under section 5(1), 13(2) or 18E(1), the obligation to stamp any preceding agreement between the same parties and on the same terms is discharged (Amended L.N. 90 of 1999 and 44 of 1999 s. 22; 21 of 2003 s. 25; 14 of 2011 s. 15)

***Note 3**

Subject to Note 2, if 2 or more agreements for sale are made between the same parties and on the same terms-

- (a) for the purposes of Part IIIA and this sub-head, all of the agreements are deemed to be made on the relevant date (within the meaning of section 29B(3)); and
- (b) where any of the agreements is duly stamped or stamped under section 5(1), 13(2) or 18E(1)- (Amended 21 of 2003 s. 25; 14 of 2011 s. 15)
 - (i) the other agreements are each chargeable with stamp duty of \$100; and
 - (ii) notwithstanding paragraph (a), the time for stamping each of the other agreements is not later than 30 days after it was executed (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22. Amended 14 of 2011 s. 15)

Note 4

Where 2 agreements for sale are made in respect of the same, or part of the same, property and involve a common purchaser (but are not made between the same parties), this sub-head is subject to section 29C(5)

Note 5

For the purposes of Notes 2, 3 and 4, a person and a parent, spouse or child of that person shall be treated as the same person (Added 8 of 1992 s. 6)

Note 6

(Repealed 33 of 1998 s. 11)

(1B) AGREEMENT FOR SALE CHARGEABLE WITH SPECIAL STAMP DUTY

Part 1—for residential property acquired on or after 20 November 2010 but before 27 October 2012 (Added 2 of 2014 s. 20)

- (a) if the residential property is disposed of within a period of 6 months beginning on the day on which it was acquired
- (b) if the residential property is disposed of within a period of 12 months beginning on the day on which it was acquired, but after the expiry of a period of 6 months beginning on that day
- (c) if the residential property is disposed of within a period of 24 months beginning on the day on which it was acquired, but after the expiry of a period of 12 months beginning on that day

Part 2—for residential property acquired on or after 27 October 2012

- (a) if the residential property is disposed of within a period of 6 months beginning on the day on which it was acquired
- (b) if the residential property is disposed of within a period of 12 months beginning on the day on which it was acquired, but after the expiry of a period of 6 months beginning on that day
- (c) if the residential property is disposed of within a period of 36 months beginning on the day on which it was acquired, but after the expiry of a period of 12 months beginning on that day

(Added 2 of 2014 s. 20)

- (A) (a)
- (b) 10% of the amount or value of the consideration
- (c) 5% of the amount or value of the consideration
- (B) The same time as that which applies to an agreement for sale specified under sub-head (1A)
- (C) The same parties as those who are liable in respect of an agreement for sale specified under sub-head (1A)

- (A) (a)
- (b) 15% of the amount or value of the consideration
- (c) 10% of the amount or value of the consideration
- (B) The same time as that which applies to an agreement for sale specified under sub-head (1A)
- (C) The same parties as those who are liable in respect of an agreement for sale specified under sub-

Note 1

This sub-head is subject to sections 29C and 29CA

Note 2

- (a) If only part of the residential property is disposed of within a period specified in the first column of this sub-head, the special stamp duty chargeable under this sub-head is the percentage (specified opposite to that period) of the amount or value of the consideration for that part as indicated by the parties to the agreement concerned to the Collector (*part consideration*)
- (b) If different parts of the residential property are disposed of within different periods specified in the first column of this sub-head, the special stamp duty chargeable in respect of any of those parts under this sub-head is the percentage (specified opposite to the period applicable to that part) of the amount or value of the consideration for that part as indicated by the parties to the agreement concerned to the Collector (*part consideration*), and the special stamp duty chargeable in respect of the property under this sub-head is the total of the special stamp duty chargeable in respect of those parts
- (c) If the Collector is of the opinion that the part consideration does not represent the value of the part concerned, the Collector may substitute that value for the part consideration for the purpose of the calculation of special stamp duty chargeable under this sub-head

Note 3

A nomination made, or a direction given, by a purchaser as referred to in paragraph (h) of the definition of *agreement for sale* in section 29A(1) in favour of one, or more than one, person who is a parent, spouse, child, brother or sister of the purchaser (whether or not also in favour of the purchaser) is not chargeable with special stamp duty

Note 4

The Notes to head 1(1A) apply to special stamp duty chargeable under this sub-head as they apply to stamp duty chargeable under head 1(1A); but a person and a brother or sister of that person are also to be treated as the same person for the purposes of special stamp duty

(Added 14 of 2011 s. 15)

(1C) AGREEMENT FOR SALE CHARGEABLE
WITH BUYER'S STAMP DUTY

Note 1

This sub-head is subject to sections 29C, 29CB and 29CC

Note 2

A nomination made, or a direction given, by a purchaser as referred to in paragraph (h) of the definition of **agreement for sale** in section 29A(1) in favour of one, or more than one, person who is a parent, spouse, child, brother or sister of the purchaser (whether or not also in favour of the purchaser) is not chargeable with buyer's stamp duty

Note 3

The Notes to head 1(1A) apply to buyer's stamp duty chargeable under this sub-head as they apply to stamp duty chargeable under head 1(1A); but a person and a brother or sister of that person are also to be treated as the same person for the purposes of buyer's stamp duty

(Added 2 of 2014 s. 20)

(2) LEASE

- (a) where the consideration or any part of the consideration, moving either to the lessor or to any other person, consists of any money, stock or security

- (b) where the consideration or any part of the consideration is any rent

- (i) where the term is not defined or is uncertain;
(ii) where the term specified in the lease does not exceed one year;

- (A) 15% of the amount or value of the consideration
(B) The same time as that which applies to an agreement for sale specified under sub-head (1A)
(C) The purchaser

- (A) The same duty as on a conveyance on sale for the same consideration (see Note 1 to sub-head (1))
(B) 30 days after execution
(C) All parties, and all other persons executing

- (A) (i)
(ii) 25 cents for every \$100 or part thereof of the total rent payable over the term of the

(iii) where the term specified in the lease exceeds one year but does not exceed three years;

(iv) where the term specified in the lease exceeds three years

(c) Lease executed in pursuance of a duly stamped agreement for lease

And see sections 2, 16, 17, 27, 39, 42 and 43

Partition, Instruments effecting-see section 25(7)

Voluntary Chargeable Agreements for Sale-see section 29F (Added 8 of 1992 s. 6)

Voluntary Disposition inter vivos - see section 27

HEAD 2: HONG KONG STOCK

(1) CONTRACT NOTE for the sale or purchase of any Hong Kong stock not being jobbing business on every note required to be made under section 19(1)

lease
(iii) 50 cents for every \$100 or part thereof of the yearly or average yearly rent

(iv) \$1 for every \$100 or part thereof of the yearly or average yearly rent

(B) 30 days after execution

(C) All parties, and all other persons executing

(A) \$3

(B) 30 days after execution

(C) All parties, and all other persons executing

(A) 0.1% of the amount of the consideration or of its value at the date on which the contract note falls to be executed: but see Note to this sub-head (Amended 18 of 1998 s. 2; 22 of 2000 s. 2; 22 of 2001 s. 4)

(B) 2 days after the sale or purchase if effected in Hong Kong: see section 19(1)(b)(i)
30 days after the sale or purchase if effected

<p>And see sections 2, 4, 5, 5A, 6, 19, 20, 23, 24, 27 and 45</p> <p>Note</p> <p>Where the consideration or any part of the consideration consists of any security not being stock, the amount due upon such security for principal and interest on the date on which the contract note falls to be executed shall be taken to be its value at that date</p>	<p>elsewhere: see section 19(1)(b)(ii)</p> <p>(C) The agent or, where no agent, the principal effecting the sale or purchase</p>
<p>(2) CONTRACT NOTE in respect of jobbing business on every note required to be made under section 19(1)</p>	<p>(A) \$5</p> <p>(B) 2 days after the sale or purchase: see section 19(1)(b)(i)</p> <p>(C) The exchange participant effecting the sale or purchase (Amended 12 of 2000 s. 23)</p>
<p>And see sections 2, 4, 19 and 20</p> <p>(3) TRANSFER operating as a voluntary disposition inter vivos or made for the purpose of effectuating a transaction whereby the beneficial interest in Hong Kong stock passes otherwise than on sale and purchase, including a foreclosure order (Amended 33 of 1998 s. 11)</p>	<p>(A) \$5 and 0.2% of the value of the stock (Amended 18 of 1998 s. 2; 22 of 2000 s. 2; 22 of 2001 s. 4)</p> <p>(B) 7 days after execution or, if executed elsewhere than in Hong Kong, 30 days after execution; but see Note 1 to this sub-head</p> <p>(C) The transferor and the transferee; but see Note 1 to this sub-head</p>
<p>And see sections 4, 19, 27, 28, 30, 44 and 45</p> <p>Note 1</p> <p>In the case of a foreclosure order, the time for stamping shall be before the order is signed by the Registrar and the persons liable shall be the</p>	

persons obtaining the order

Note 2

In the case of a foreclosure order, the stamp duty chargeable thereon shall not exceed the stamp duty which would have been chargeable thereon by reference to the amount of the debt to which the order relates

Note 3

A foreclosure order shall not be duly stamped unless the Collector has stamped it under section 13(3)(b)

(4) TRANSFER of any other kind

(A) \$5; but see Note to this sub-head

(B) Before execution or, if executed elsewhere than in Hong Kong, 30 days after execution

(C) The transferor and the transferee

And see sections 5, 7, 19, 30, 47A and 47B (Amended 70 of 2000 s. 3; 34 of 2003 s. 8)

Note

No stamp duty under this sub-head shall be payable on a transfer executed by a recognized clearing house (within the meaning of section 19(16)) or its nominee-

(a) as the transferor of the Hong Kong stock; and

(b) in accordance with the rules (within the meaning of section 19(16)) of the clearing house

(Replaced 40 of 1992 s. 7)

HEAD 3: HONG KONG BEARER INSTRUMENT

(1) HONG KONG BEARER INSTRUMENT issued in respect of any stock other than-

(a) (Repealed 43 of 1991 s. 7)

(b) units in a unit trust scheme under the terms of which the funds of the trust cannot be invested in any investment other than loan capital

(A) \$3 per \$100 or part thereof of market value on issue

(B) Before issue

(C) The person by whom or on whose behalf the instrument is issued and any person who acts as the agent of that person for the purposes of the issue

And see sections 2 and 5(5)
(Replaced 21 of 1986 s. 2)

- (2) HONG KONG BEARER INSTRUMENT given in substitution for a like instrument duly stamped under sub-head (1) of this head

- (A) \$5
(B) Before issue
(C) The person by whom or on whose behalf the instrument is issued and any person who acts as the agent of that person for the purposes of the issue

And see sections 2 and 5(5)

HEAD 4: DUPLICATES AND COUNTERPARTS

DUPLICATE OR COUNTERPART of any instrument chargeable with any stamp duty

- (A) Where the stamp duty on the original instrument does not amount to \$5, the same stamp duty as on the original; in any other case, \$5: but see Note to this head
(B) 7 days after execution, or such longer period as the time for stamping the original instrument would allow
(C) -

And see section 8

Note

If in the case of a lease or agreement for a lease the stamp duty payable in respect thereof is limited in accordance with section 42(2) or 43(2) to 50% of the stamp duty chargeable thereon, the stamp duty chargeable on a duplicate or counterpart thereof shall be limited to 50% of the stamp duty otherwise chargeable under this head

(Amended 29 of 1988 s. 2; 43 of 1991 s. 7; 85 of 1991 s. 6; 8 of 1992 s. 6; 36 of 1992 s. 3; 40 of 1992 s. 7; L.N. 50 of 1993; 31 of 1993 s. 2)

Note:

* The amendments made by L.N. 90 of 1999 and Ord. No. 44 of 1999 to paragraph (B), Note 2(a) and (b) and

Note 3 under head 1(1A) of the First Schedule shall only apply to an agreement for sale, or an unwritten sale agreement, as defined in section 29A(1), if the relevant date within the meaning of section 29B(3) is, in so far as such agreement for sale or unwritten sale agreement (as the case may be) is concerned, on or after 1 April 1999.

Chapter:	136	MENTAL HEALTH ORDINANCE	Gazette Number	Version Date
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Section:	17	Committee to execute instruments	L.N. 29 of 1999	01/02/1999
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(1) The committee of the estate of the mentally incapacitated person shall, in his name and on his behalf, execute all such conveyances and instruments of transfer, relative to any sale, mortgage or other disposition of his estate as the Court shall order.

(2) In like manner such committee shall, under the order of the Court, exercise all powers whatsoever vested in a mentally incapacitated person whether the same are vested in him for his own benefit or in the character of trustee or guardian.

(Amended 81 of 1997 s. 58)

Chapter:	200	CRIMES ORDINANCE	Gazette Number	Version Date
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Section:	84	Making false entry in contract for sale of shares	13 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 13 of 1999 s. 3

Any person, whether principal, broker or agent, who wilfully inserts, in any contract, agreement or token of sale and purchase made or entered into for the sale or transfer, or purporting to be for the sale or transfer, of any share, stock or other interest in the capital stock of any bank, body corporate, company or society, established by charter or by, under or by virtue of any Ordinance, issuing shares or stock transferable by any deed or written instrument, any false entry of the numbers by which the same are distinguished on the registers or books of such company, or any names other than those of the persons in whose name such shares, stock or interest stand as registered proprietors thereof in the books of such company, shall be guilty of an offence and shall be liable on conviction upon indictment to a fine of \$5000 and to imprisonment for 3 years.

(33 of 1935 s. 4 incorporated. Amended 22 of 1950 Schedule; 13 of 1999 s. 3)
[cf. 1867 c. 29 s. 1 U.K.]

Chapter:	622	Companies Ordinance	Gazette Number	Version Date
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Section:	632	Power to close register of members	L.N. 163 of 2013	03/03/2014
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- (1) A company may, on giving notice in accordance with subsection (2), close its register of members, or the part of it relating to members holding shares of any class, for any period or periods not exceeding in the whole 30 days in each year.
- (2) A notice for the purposes of subsection (1)—
 - (a) if the company is a listed company, must be given—
 - (i) in accordance with the listing rules applicable to the stock market; or
 - (ii) by advertisement in a newspaper circulating generally in Hong Kong; and
 - (b) in the case of any other company, must be given by advertisement in a newspaper circulating generally in Hong Kong.
- (3) The period of 30 days mentioned in subsection (1) may be extended in respect of any year by a resolution of the company's members passed in that year.
- (4) The period of 30 days mentioned in subsection (1) must not be extended for a further period or periods exceeding 30 days in the whole in any year.
- (5) A company must, on demand, provide any person seeking to inspect a register or part of a register that is closed under this section with a certificate signed by the company secretary of the company stating the period for

which, and by whose authority, it is closed.

- (6) If a company contravenes subsection (5), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 3.