

L.N. 111 of 2015

Competition Tribunal Suitors' Funds Rules

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Competition Tribunal Suitors' Funds Rules

(Made by the Chief Judge after consulting the President of the Competition Tribunal under section 158A of the Competition Ordinance (Cap. 619))

1. Commencement

These Rules come into operation on a day to be appointed by the Chief Judge by notice published in the Gazette.

2. Interpretation

In these Rules—

funds (儲存金) means any money, securities, or movable property or any part of it, standing in or to be placed to the Registrar's account and includes boxes and other effects;

ledger account (分類帳帳目) means any separate account that bears the title of a cause or matter opened or to be opened under an order or otherwise in the Registrar's books to which any funds are credited or to be credited;

lodge (交存) means pay, transfer or deposit;

order (命令) means an order of the Tribunal and includes a judgment or decree, and any schedule to an order;

Registrar (司法常務官) means the Registrar of the Tribunal.

3. Lodgment of funds

- (1) All funds to be lodged in the Tribunal on any ledger account must, unless required by any law to be dealt with in any particular way, be lodged with the Registrar.

- (2) The Registrar must establish and maintain at such bank as the Director of Accounting Services directs an account called in English the “Competition Tribunal Suitors’ Funds Account” and in Chinese “競爭事務審裁處訴訟人儲存金帳戶”, and must pay into it any funds lodged that are money.

4. Receipt to be given by Registrar

- (1) The Registrar must give to a person who makes a lodgment a receipt in respect of the lodgment.
- (2) If any securities, movable property, boxes or other effects are proposed to be lodged in the Tribunal, the Registrar may, before giving a receipt under subrule (1), make such inspection of the lodgment as the Registrar thinks fit.
- (3) Subject to subrule (4), every receipt given in respect of any lodgment must—
 - (a) be headed with the title of the cause or matter to which the lodgment is referable;
 - (b) contain adequate particulars of the lodgment; and
 - (c) be in Form 1 in the Schedule.
- (4) If money is lodged in the Tribunal as funds, the receipt given in respect of the lodgment must—
 - (a) specify the amount of money received;
 - (b) specify the Tribunal action number to which the lodgment is referable;
 - (c) specify the date of any order directing the lodgment;
 - (d) specify the party making the lodgment;
 - (e) specify the method of the lodgment;

- (f) contain a general description of the purposes of the lodgment; and
- (g) be in Form 2 in the Schedule.

5. Keeping of accounts and register

- (1) The Registrar must—
 - (a) keep appropriate ledger accounts to which all funds lodged in the Tribunal that are money or securities must be credited, and to which any such funds withdrawn or transferred from the accounts must be debited;
 - (b) enter into the accounts in an appropriate manner the investment of any such funds; and
 - (c) enter into the accounts in an appropriate manner any dealing, other than by way of lodgment, withdrawal, transfer or investment, of such funds as the circumstances of the case require.
- (2) The Registrar must—
 - (a) keep a register of all funds lodged in the Tribunal that are not money or securities;
 - (b) enter in the register any lodgment, withdrawal, transfer, investment or other dealings of such funds; and
 - (c) for each entry in the register, make a memorandum in an appropriate manner in the ledger accounts.

6. Annual statement of accounts

- (1) The Registrar must cause to be prepared for every period of 12 months ending on 31 March in each year a statement of the accounts kept under rule 5(1).
- (2) The statement must—

- (a) include a receipts and payments account and a statement of assets and liabilities; and
- (b) be signed by the Registrar.

7. **Securities**

- (1) All kinds of securities may be lodged in the Tribunal.
- (2) Securities that are issued by companies or corporations constituted under the laws of Hong Kong and are fully paid up and free from all liability may be transferred to the Registrar by the name of office of the Registrar.
- (3) Other securities may be placed in a box or packet and lodged with the Registrar, who must, before taking custody of the box or packet, ensure that it is properly marked and secured and must inspect the contents of it in the presence of the person lodging it.
- (4) When securities are to be transferred into the name of office of the Registrar, the person lodging the securities must—
 - (a) execute a transfer and obtain from the Registrar an authority that must be in Form 3 in the Schedule; and
 - (b) submit the transfer together with the authority at the office of the company or corporation in whose books the securities are to be transferred.
- (5) A company or corporation at the office of which a transfer and authority under subrule (4) have been submitted must, after registering the transfer—
 - (a) if the securities are not listed on a recognized stock market, lodge in the Tribunal a certificate in Form 4 in the Schedule, stating that the securities have been transferred as authorized; or

- (b) if the securities are listed on a recognized stock market, lodge in the Tribunal the certificate of the securities issued in the name of office of the Registrar.
- (6) On receiving a certificate under subrule (5), the Registrar must give to the person making the lodgment a receipt referred to in rule 4(3) in respect of the lodgment.
- (7) In this rule—
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).

8. Principal money and dividends in respect of or on securities to be placed in Registrar's books

- (1) Any principal money or dividends received by the Registrar in respect of or on securities lodged in the Tribunal must be placed in the Registrar's books.
- (2) For principal money, it is to be placed to the credit of the account in which the securities giving rise to the money are standing at the time of receipt of the money.
- (3) For dividends, they are to be placed to the credit of the account in which the securities accruing the dividends are standing at the time of closing of the transfer books of the securities, before the dividends become due.

9. Payment out of money lodged in Tribunal

- (1) Any money lodged in the Tribunal may be paid out—
 - (a) if the amount does not exceed \$250, in cash or by cheque;
 - (b) if the amount exceeds \$250, by cheque; or

- (c) in respect of any amount, by payments made by the transfer of funds from the bank account of the Tribunal.
- (2) Any cheque or instruction to a bank for a transfer of funds must be signed by 2 persons as may from time to time be authorized in writing by the Registrar.
- (3) Payment out in cash or by cheque must be made at the Tribunal on any day that is neither a Saturday nor a general holiday and during the opening hours of the accounts office of the Tribunal.

10. Payment out to be ascertained by certificate of Registrar

- (1) If an order directs any sum to be ascertained by a certificate of the Registrar and to be afterwards paid in accordance with the certificate, the certificate must be in Form 5 in the Schedule.
- (2) On the request of a person entitled to payment under subrule (1), the Registrar must pay the sum in accordance with rule 9.

11. Payment of costs

- (1) If an order directs payment out of the funds of any costs directed to be taxed, the Registrar must state in a certificate of the Registrar the name and address of the person to whom the costs are payable, and the certificate must be in Form 6 in the Schedule.
- (2) On the request of a person entitled to payment under subrule (1), the Registrar must pay the costs in accordance with rule 9.

12. Payment out, transfer, etc. of funds to personal representatives of persons entitled to payment

- (1) This rule applies if—
 - (a) an order directs funds to be paid, transferred or delivered out to any person named or described in the order or in a certificate of the Registrar; and
 - (b) the order or certificate does not express the person to be entitled to the funds as trustee, executor or administrator, or otherwise than in the person's own right or for the person's own use.
- (2) The funds referred to in subrule (1)(a) (or any portion of them remaining unpaid, untransferred or undelivered) may, unless the order otherwise directs, be paid, transferred or delivered out to the legal personal representative of the person on proof of the death of the person—
 - (a) (if payment is directed to be made to the person as a creditor) before the date of the order; or
 - (b) (in any other case) whether on or after the date of the order.
- (3) If—
 - (a) no administration has been taken out to the deceased who has died intestate; and
 - (b) the assets of the deceased do not exceed \$5,000 in value, including the amount of the funds directed to be paid, transferred or delivered out to the deceased, the funds may be paid, transferred or delivered out to the person who, being widower, widow, child, father, mother, brother or sister of the deceased, would be entitled to take out the administration to the estate of the deceased, on making a declaration in Form 7 in the Schedule.

- (4) If an order directs funds to be paid, transferred or delivered out to 2 or more persons as legal personal representatives, the funds (or any portion of them remaining unpaid, untransferred or undelivered) may be paid, transferred or delivered out to the surviving representatives on proof of the death of any representative, whether on or after the date of the order.
- (5) No funds are to be paid, transferred or delivered out of the Tribunal under this rule to the legal personal representative of any person under any probate or letters of administration purporting to be granted at any time after the expiry of 2 years—
 - (a) from the date of the order directing the payment, transfer or delivery; or
 - (b) (if the funds consist of interest or dividend) from the date of the last receipt of the interest or dividend.

13. Order directing payment out, transfer, etc. of funds to describe persons entitled to payment etc.

- (1) An order directing funds to be paid, transferred or delivered out must—
 - (a) set out in full the name of every person to whom the payment, transfer or delivery is to be made, unless the name is to be stated in a certificate of the Registrar; or
 - (b) (for payment, transfer or delivery to a firm) state the business name of the firm.
- (2) If an order directs money lodged in the Tribunal to be paid out to 2 or more persons described in the order or in a certificate of the Registrar as co-partners, the money may be paid out to any one or more of the co-partners or to the surviving co-partners.

14. Order directing investment of money lodged in Tribunal

- (1) If an order directs money lodged in the Tribunal to be invested, the party having the carriage of the order must lodge with the Registrar a request in writing for the investment to be effected.
- (2) On receiving the request, the Registrar must procure the investment of the money in the manner directed by the order.
- (3) An order directing investment of money lodged in the Tribunal must set out the name or the name of office of the person in whose name the money is directed to be invested.

15. Order directing other dealings with money lodged in Tribunal

- (1) If an order directs money lodged in the Tribunal to be dealt with otherwise than by lodgment, withdrawal, transfer or investment, the party having the carriage of the order must lodge with the Registrar a request in writing for the money to be dealt with in the terms of the order.
- (2) On receiving the request, the Registrar must act in accordance with the order.

16. Carrying over of funds to separate account

If funds are ordered to be carried over to a separate account, the title of the account to be opened for the purpose must state the title of the cause or matter to which the funds relate.

17. Power of Registrar to invest money

- (1) The Registrar may, unless an order directs otherwise—

- (a) invest any money lodged in the Tribunal that is standing to the credit of any ledger account in such manner as the Registrar thinks fit; and
 - (b) vary the investment at any time.
- (2) Subject to subrule (3), if the Registrar invests any money lodged in the Tribunal that is standing to the credit of any ledger account, any interest or dividend or any principal money the Registrar receives on or in respect of the investment must be—
- (a) paid into the Competition Tribunal Suitors' Funds Account; and
 - (b) placed in the Registrar's books to the credit of the account in which the investment was standing when the interest or dividend became due or when the principal money was received.
- (3) Unless an order directs otherwise and subject to subrules (4), (5) and (6), no interest is to be credited to any money lodged in the Tribunal that is standing to the credit of any ledger account if—
- (a) the money is paid into the Tribunal as security for costs or by way of satisfaction or amends or in compliance with an order giving leave to defend on payment of the money;
 - (b) the amount is less than \$7,500;
 - (c) the money is paid into the Tribunal for payment of expenses including but not limited to watchmen's fees, caretakers' fees and witness expenses;
 - (d) the money is paid into the Tribunal as the proceeds of sale; or
 - (e) the money is paid into the Tribunal by way of satisfaction of a judgment debt.

- (4) If money is paid into the Tribunal for any purpose referred to in subrule (3)(a), interest must be credited to the ledger account for the relevant cause or matter, beginning on the 3rd business day after the day on which the money is paid into the Tribunal.
- (5) Despite subrule (4), if the money paid into the Tribunal for any purpose referred to in subrule (3)(a) is a sanctioned payment within the meaning of Order 22 of the Rules of the High Court (Cap. 4 sub. leg. A), interest must be credited to the ledger account for the relevant cause or matter, beginning on the 28th day after the day on which the money is paid into the Tribunal.
- (6) Despite subrule (4), if the money paid into the Tribunal for any purpose referred to in subrule (3)(a) is a sanctioned payment within the meaning of Order 62A of the Rules of the High Court (Cap. 4 sub. leg. A), interest must be credited to the ledger account for the relevant cause or matter, beginning on the 14th day after the day on which the money is paid into the Tribunal.
- (7) Interest on any money lodged in the Tribunal is not to be computed on a fraction of \$1.
- (8) The Registrar is not required to apportion any amount of interest payable on money lodged in the Tribunal that is standing to the credit of any ledger account.
- (9) In this rule—
business day (工作日) means any day other than—
 - (a) a general holiday;
 - (b) a Saturday; or
 - (c) a gale warning day or black rainstorm warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1).

18. Surplus income

- (1) The Registrar must pay into the Treasury as soon as is practicable after the end of each financial year any sum standing in the Competition Tribunal Suitors' Funds Account over and above the amounts required by these Rules to be credited to the various accounts.
- (2) The sum referred to in subrule (1) must be transferred to the general revenue.

19. Cost of administering Competition Tribunal Suitors' Funds Account

The cost of administering the various accounts required to be kept under these Rules is to be defrayed out of the general revenue.

20. Evidence by affidavit of life or of fulfilment of condition

If a person is entitled under an order to receive dividends or other periodical payments, and the Registrar requires evidence of life or of the fulfilment of any condition before payment to the person can be made, the evidence must be given by an affidavit.

21. Evidence by affidavit or statutory declaration of other matters

- (1) If, in carrying into effect any direction of an order, the Registrar requires evidence for any purposes other than those specified in rule 20, the Registrar may receive and act on an affidavit or a statutory declaration.
- (2) An affidavit or a statutory declaration referred to in subrule (1) must be filed in the Tribunal when the Registrar considers it necessary.

22. Certificate of amount and description of funds

- (1) On a request signed by or on behalf of a person claiming to be interested in any funds standing to the credit of an account specified in the request, the Registrar must, unless there is a good reason for refusing, issue a certificate of the amount and description of the funds.
- (2) A certificate issued under subrule (1) must refer to the state of the account at the beginning of the day of the date of the certificate, and must not include the transactions of that day.
- (3) A certificate issued under subrule (1) must state—
 - (a) the date of any charging order affecting, or of any order restraining, the transfer, sale, payment or delivery out of, or other dealing with, the funds standing to the credit of the account specified in the certificate, in respect of the order the Registrar receives notice;
 - (b) whether the charging or restraining order affects the principal money, interest or dividend that comprises the funds; and
 - (c) the names of the persons to whom the certificate is to be issued or in whose favour the charging or restraining order is made.
- (4) The Registrar may redate a certificate issued under subrule (1) if no alteration in the amount or description of funds has been made since the issue of the certificate.

23. Transcript of account in Registrar's books

On a request signed by or on behalf of a person claiming to be interested in any funds, the Registrar must, unless there is a good reason for refusing—

- (a) issue a transcript of the account in the Registrar's books specified in the request; and
- (b) supply other information or issue certificates with respect to any transaction or dealing with the funds as may from time to time be required in a particular case.

24. Transfer of unclaimed money in Tribunal

- (1) If any sum of money remains unclaimed in the Tribunal for 5 years, the Chief Justice may, on application by the Registrar, order the sum to be transferred to the general revenue.
 - (2) Before making an order under subrule (1), the Chief Justice may direct that such notice as the Chief Justice thinks necessary must be given, and to such party as the Chief Justice thinks fit.
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Schedule

Forms

Form 1

[r. 4(3)]

COMPETITION TRIBUNAL SUITORS' FUNDS RULES

Receipt

IN THE COMPETITION TRIBUNAL OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION

(*Title of cause or matter.* No. of)

Received from

*the following securities (*insert particulars here*) / a packet marked
purporting to contain (*insert list of contents
here*) / the following movable property (*insert particulars here*).

*Delete as appropriate.

(Signature)

Registrar

Dated this day of , .

Competition Tribunal Suitors' Funds Rules

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Form 2

[r. 4(4)]

COMPETITION TRIBUNAL SUITORS' FUNDS RULES

Receipt

IN THE COMPETITION TRIBUNAL OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION

(*Title of cause or matter.* No. of)

Receipt no.

Amount received

Date of receipt

Action no.

Date of order (if applicable)

Payer

Purposes of payment

Payment code

Payment method

Amount received

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Schedule

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Form 3

[r. 7(4)]

COMPETITION TRIBUNAL SUITORS' FUNDS RULES

Authority to company or corporation to register transfer of securities

IN THE COMPETITION TRIBUNAL OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION

(*Title of cause or matter.* No. of)

To _____ Limited,
Hong Kong.

Please register transfer of securities Nos. _____ of (*name of*
company or corporation) from _____ to the
Registrar of the Tribunal.

(Signature)

Registrar

Dated this day of , .

Competition Tribunal Suitors' Funds Rules

Schedule

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Form 4

[r. 7(5)]

COMPETITION TRIBUNAL SUITORS' FUNDS RULES

Certificate of registration of securities

IN THE COMPETITION TRIBUNAL OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION

The securities Nos. _____ of (*name of company or corporation*)
have this day been transferred to the Registrar of the Tribunal as
authorized.

(Signature)

Secretary of _____,
Limited

Dated this _____ day of _____, _____.

Competition Tribunal Suitors' Funds Rules

Schedule

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Form 5

[r. 10(1)]

COMPETITION TRIBUNAL SUITORS' FUNDS RULES

Certificate of ascertained sums

IN THE COMPETITION TRIBUNAL OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION

(*Title of cause or matter.* No. of)

I certify that under the order dated _____, _____, the sums stated in the schedule to this certificate amounting in the whole to \$ _____ have been ascertained to be the sums payable under the above order to the persons respectively named in respect of (*state purpose of payment*).

(Signature)

Registrar

Dated this _____ day of _____, _____.

Schedule

Name	Address (if ascertained)	Amount to be paid

Competition Tribunal Suitors' Funds Rules

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Form 6

[r. 11(1)]

COMPETITION TRIBUNAL SUITORS' FUNDS RULES

Certificate of taxed costs

IN THE COMPETITION TRIBUNAL OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION

(*Title of cause or matter. No. of*)

I certify that I have taxed the bill of costs of (*name of party*) against (*name of party*) on (*date of taxation*) pursuant to an order by (*name of judge*) dated , , and allow as follows:

(*Basis of costs*)

Solicitors' profit costs	\$
Disbursements	\$
Costs of taxation	\$
Taxing fees	\$
Allowed at	\$

The above taxed costs and fees are payable to (*name of payee*) of (*address of payee*) out of the funds in the Tribunal.

(Signature)

Registrar

Competition Tribunal Suitors' Funds Rules

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Dated this day of , .

Form 7

[r. 12(3)]

COMPETITION TRIBUNAL SUITORS' FUNDS RULES

Declaration

IN THE COMPETITION TRIBUNAL OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION

(*Title of cause or matter.* No. of)

I (*name and address of applicant*) solemnly and sincerely declare that I am the (*degree of relationship*) and next or one of the next of kin of (*name of deceased*) and that I am entitled to take out the administration to his or her estate and to receive the sum of \$ directed to be paid to him or her by the order dated , .

And I further declare that the total value of the assets of the deceased including the above amount does not exceed \$5,000, and I certify that the death-bed and funeral expenses of the deceased have been paid.

I make this solemn declaration conscientiously believing it to be true and by virtue of the provisions of the Oaths and Declarations Ordinance (Cap. 11).

(Signature of applicant)

Declared at

Competition Tribunal Suitors' Funds Rules

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Before me this day of , .

(Signature)

Person authorized by law to take
and receive the declaration under
the Oaths and Declarations
Ordinance (Cap. 11)

Andrew CHEUNG
Chief Judge

26 May 2015

Explanatory Note

These Rules relate to the administration of the suitors' funds kept by the Competition Tribunal (*Tribunal*) established under the Competition Ordinance (Cap. 619).

2. Rule 1 provides for commencement.
3. Rule 2 contains the definitions used in the Rules.
4. Rule 3 requires all funds to be lodged with the Registrar of the Tribunal (*Registrar*) and the Registrar to maintain an account called the "Competition Tribunal Suitors' Funds Account" (*Account*).
5. Rule 4 requires the Registrar to issue a receipt for a lodgment. The rule also sets out the requirements of the receipt.
6. Rule 5 provides that the Registrar must keep records of all funds lodged in the Tribunal, including records of their withdrawal, transfer, investment, etc.
7. Rule 6 requires the Registrar to prepare an annual statement of the accounts kept under rule 5.
8. Rule 7 allows securities to be lodged in the Tribunal. The rule also covers the procedures relating to their transfer.
9. Rule 8 requires any principal money or dividends received for securities lodged in the Tribunal to be entered in the Registrar's books.

Competition Tribunal Suitors' Funds Rules

Explanatory Note
Paragraph 10

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10. Rule 9 prescribes the means of paying out the money lodged in the Tribunal and the time for the payment.
11. Rule 10 deals with the case where outgoing payments are ascertained by a certificate of the Registrar.
12. Rule 11 prescribes the details that a certificate of the Registrar must contain where payment of costs has to be taxed.
13. Rule 12 provides for the circumstances in which funds may be paid, transferred, etc. to the personal representatives of the persons entitled to the payment.
14. Rule 13 requires an order directing the payment, transfer, etc. of funds to name the persons entitled to the payment.
15. Rule 14 covers the procedures following the making of an order directing the investment of the money lodged in the Tribunal.
16. Rule 15 covers the procedures following the making of an order directing other dealings with the money lodged in the Tribunal.
17. Rule 16 provides for the carrying over of funds to a separate account.
18. Rule 17 empowers the Registrar to invest the money lodged in the Tribunal. The rule also provides for the accrual of interest on the investment.
19. Rule 18 requires any surplus in the Account to be transferred to the general revenue.
20. Rule 19 provides that the cost of administering the accounts kept under the Rules is to be paid out of the general revenue.

21. Rule 20 requires evidence of life or fulfilment of condition to be given by an affidavit. Rule 21 allows evidence of other matters to be given by an affidavit or a statutory declaration.
22. Rule 22 provides that the Registrar must, on request, issue a certificate of the amount and description of the funds specified in the request. The rule also sets out the requirements of the certificate.
23. Rule 23 provides that the Registrar must, on request, issue a transcript of the account specified in the request.
24. Rule 24 provides for the transfer of unclaimed money in the Tribunal to the general revenue.
25. The Schedule specifies the forms to be used under the Rules.