

LEGISLATIVE COUNCIL BRIEF

Companies Ordinance
(Chapter 622)

COMPANIES (AMENDMENT) (No. 2) BILL 2024

INTRODUCTION

At the meeting of the Executive Council on 17 December 2024, the Council ADVISED and the Chief Executive ORDERED that the Companies (Amendment) (No.2) Bill 2024 (the Bill) at Annex A should be introduced into the Legislative Council (LegCo).

A

2. The Bill amends the Companies Ordinance (Chapter 622) (CO) to introduce a company re-domiciliation regime that enables non-Hong Kong-incorporated companies to re-domicile to Hong Kong and to introduce related amendments to other enactments.

JUSTIFICATIONS

Demand and Benefits

3. To address base erosion and profit-shifting risks arising from the digitalisation of the economy, currently more than 140 jurisdictions indicated acceptance of the international reform proposals drawn up by the Organisation for Economic Co-operation and Development (BEPS 2.0). The BEPS 2.0 proposals require that in-scope large multinational enterprise groups pay a global minimum tax of at least 15 per cent on income derived by their constituent entities in every jurisdiction where they operate, thus reducing the latitude for jurisdictions to introduce tax exemption or extremely low preferential tax rate as a means to enhance their tax competitiveness in future. In addition, the economic substance requirement imposed on some companies¹ incorporated or registered in

¹ The requirements target certain mobile activities including headquarters, distribution centres, service centres, financing, leasing, fund management, banking, insurance, shipping, holding companies, and the provision of intangibles.

certain jurisdictions in recent years increases the compliance cost borne by these offshore companies. The introduction of a company re-domiciliation regime in Hong Kong will enable these companies, especially those with a business focus in the Asia-Pacific region, to transfer their domicile to Hong Kong in response to the increasing compliance burden of being subject to two sets of regulations in two jurisdictions.

4. For non-Hong Kong-incorporated companies which are already economically active in Hong Kong, becoming re-domiciled companies will facilitate their compliance with our high standards on corporate governance and better alignment of the geographical coverage of their business activities with their domicile, as well as enhancing Hong Kong's status as a business hub. Attracting non-Hong Kong-incorporated companies to re-domicile to Hong Kong will bring greater demand for Hong Kong's professional services (such as audit, accounting and legal services) and create more investment as well as skilled job opportunities as it is likely that re-domiciled companies would move some of their business operations to Hong Kong.

5. The proposed company re-domiciliation regime will enable a non-Hong Kong-incorporated company that has successfully registered under the regime (re-domiciled company) to maintain its legal identity as a body corporate, thereby ensuring its business continuity and reducing the need to go through complicated and costly judicial procedures. Without such regime, a non-Hong Kong-incorporated company currently has to be wound up and establish a new company in Hong Kong, or undergo a court-sanctioned scheme of arrangement to be converted into a wholly-owned subsidiary of a Hong Kong-incorporated company. These existing options involve complicated procedures and substantial costs and the companies concerned cannot preserve their legal identities, assets, intellectual property, contracts and corporate history.

6. The insurance sector has expressed interest for a regime that would enable insurers incorporated elsewhere to re-domicile to Hong Kong. Taking into account that the re-domiciliation mechanisms introduced in Hong Kong for open-ended fund companies and limited partnership funds have been operating smoothly since their launch in November 2021 and that some other commercial centres have already put in place company re-domiciliation regimes, we see the opportunity to take a further step to introduce a company re-domiciliation regime applicable to companies in general, which would address the demand from the insurance sector, and would also be comprehensive enough for use by other sectors.

THE PROPOSAL

Company re-domiciliation regime

Inward-only regime

7. We propose that an inward company re-domiciliation regime should be introduced to allow companies domiciled elsewhere to transfer their domicile to Hong Kong by registering under the CO as amended by the Bill (amended CO). Upon successful registration under the amended CO, re-domiciled companies will be able to preserve their identity, i.e. no new legal entity is created throughout the process. The re-domiciliation process will not affect the property, rights, obligations and liabilities, as well as the relevant contractual and legal processes of the companies.

8. In general, re-domiciled companies will have the same rights as any Hong Kong-incorporated companies of their kind in Hong Kong, and will be required to comply with the relevant requirements as other locally-incorporated companies under the amended CO.

9. Some stakeholders suggested that greater flexibility be provided for incoming companies by introducing a two-way regime to allow both inward re-domiciliation (i.e., non-Hong Kong incorporated companies re-domiciling to Hong Kong) and outward re-domiciliation (i.e., Hong Kong-incorporated companies and companies re-domiciled to Hong Kong de-registering in Hong Kong and transferring their domicile to a jurisdiction outside Hong Kong). Our proposal of an inward-only re-domiciliation regime aims to address the demand from the market, including interest expressed by the insurance sector for a simple and accessible re-domiciliation mechanism for companies to re-domicile to Hong Kong in light of the increasing compliance costs in offshore jurisdictions. We are not aware of actual demand from the local market for outward re-domiciliation. We further note that there is no standard approach worldwide; some comparable jurisdictions have put in place an inward-only re-domiciliation regime to suit their policy objectives and development needs. All in all, the need for outward re-domiciliation among Hong Kong-incorporated companies and companies re-domiciled to Hong Kong as well as the implications of an outward re-domiciliation regime on the stability and development of the Hong Kong markets remain to be ascertained. We therefore consider it appropriate to prioritise the introduction of an inward re-domiciliation regime with a view to meeting the existing market demand as soon as practicable.

Scope and coverage

10. Under the CO, five types of companies can be incorporated in Hong Kong, including (a) private companies limited by shares; (b) public companies limited by shares; (c) companies limited by guarantee without a share capital; (d) private unlimited companies with a share capital; and (e) public unlimited companies with a share capital. With consideration that our policy intent is to introduce a company re-domiciliation regime to address the demand from the market with the expectation that the re-domiciled companies would bring increased demand for professional services, investments and job opportunities, we propose that the regime should allow re-domiciliation by non-Hong Kong-incorporated companies of types (a), (b), (d) and (e) (or their comparable types in the original domicile) which are envisaged to bring about economic benefits to Hong Kong. In the absence of actual demand for re-domiciliation from companies of type (c), which is a type commonly adopted by non-profit making organisations, we do not see a need for inclusion of such companies in the proposed regime.

Application eligibility and requirements

11. To ensure that the re-domiciliation of a non-Hong Kong-incorporated company to Hong Kong will not prejudice the integrity of our business environment, the following requirements or conditions must be satisfied or fulfilled before the non-Hong Kong-incorporated company (applicant) could be registered under the amended CO:

- (a) **General:** The law of its original domicile² allows the applicant to transfer its domicile to another jurisdiction, and the applicant has complied with the requirements of the laws of its original domicile in this regard. The company type of the applicant under the law of its original domicile is the same or substantially the same as the type which the applicant proposes to register under the amended CO. As at the date of application, the applicant's first financial year end since its incorporation has passed;
- (b) **Integrity:** Registration of an applicant as a re-domiciled company may be refused if the applicant is likely to be used

² "Original domicile" refers to the jurisdiction outside Hong Kong in which the non-Hong Kong-incorporated company is incorporated, or in the case where the company has transferred its domicile to another jurisdiction since its incorporation, its latest domicile.

for unlawful purposes or purposes contrary to public interest after it is registered under the amended CO;

- (c) **Member and creditor protection:** The application for registration under the amended CO is made by the applicant in good faith and not intended to defraud its existing creditors; and consent has been obtained from the applicant's members under the law of its original domicile or the constitutional document of the applicant for the transfer of the applicant's domicile to Hong Kong³; and
- (d) **Solvency:** The applicant will be able to pay its debts in full within the period of 12 months beginning on the application date; and the company is not in liquidation.

Application process

B 12. The Registrar of Companies (R of C) will process applications for registration. A flowchart on the application procedures is at **Annex B**.

13. Upon successful application, the applicant will be registered in the Companies Register, which is maintained by the Companies Registry (CR) and available for public inspection. The R of C will issue a certificate of re-domiciliation to the company, and the applicant becomes a re-domiciled company on the same day. If the company has previously been registered as a registered non-Hong Kong company under Part 16 of the CO⁴ before it becomes a re-domiciled company, its registration under Part 16 ceases to have effect on the date of issue of the certificate of re-domiciliation to the company.

14. Within 120 days⁵ after the issuance of the certificate of re-domiciliation, the re-domiciled company must deregister from its

³ The applicant is required to obtain consent of its members for the proposed re-domiciliation according to the requirement of the law of its original domicile or the constitutional document of the applicant. In the absence of a requirement for members' consent in the law of the applicant's original domicile or the constitutional documents of the applicant, the applicant has to obtain the required consent from its members according to the requirements to be stipulated in the amended CO.

⁴ A non-Hong Kong-incorporated company that establishes a place of business in Hong Kong is required under Part 16 of the CO to be registered with the CR.

⁵ The R of C may approve an application for extension of the 120-day period, subject to any condition considered appropriate.

original domicile and submit to the R of C supporting evidence of the deregistration, failing which its registration in Hong Kong will be revoked, meaning that the re-domiciliation process is unsuccessful and therefore terminated.

15. The required documents and the fees for application for re-domiciliation as set out in Parts 2 and 3 of the Bill are summarised in **Annex C**.

Tax-related amendments

16. The re-domiciliation process would not affect the re-domiciled companies' tax obligations in the jurisdiction of their original domicile. As far as Hong Kong is concerned, regardless of its domicile, a company is charged to profits tax under the Inland Revenue Ordinance (Chapter 112) (IRO) for its profits arising in or derived from Hong Kong from a trade, profession or business carried on in Hong Kong. Since the re-domiciliation process will not entail any transfer of the company's assets, no stamp duty liabilities will arise from the process. Nevertheless, with a view to providing certainty to the re-domiciled companies on their profits tax liabilities after re-domiciliation, we need to amend the IRO to address transitional tax matters such as fair deduction for trading stock, specified types of expenditure, depreciation allowances etc., as such elements that may have occurred before re-domiciliation would have to be taken into account for tax assessment after re-domiciliation. For the purposes of elimination of double taxation, unilateral tax credits will be provided for re-domiciled companies in respect of the tax payable on actual profits derived in Hong Kong after re-domiciliation where similar profits have been taxed in an unrealised form by the company's original domicile upon exit.

17. In order to achieve the policy intent under paragraph 18 below that, in general, a re-domiciled company should be treated in the same way as a Hong Kong-incorporated company, a general interpretation provision will be introduced to the IRO to the effect that references therein to a company "incorporated in Hong Kong" include a re-domiciled company. Generally speaking, under the Comprehensive Avoidance of Double Taxation Agreements or Arrangements (CDTA) signed between the Hong Kong Special Administrative Region (HKSAR) and other jurisdictions, a resident of the HKSAR is defined for the purpose of the CDTA to mean, among others, a company incorporated in the HKSAR or, if the company is incorporated outside the HKSAR, being normally managed or controlled in the HKSAR. Although the term "company incorporated in the

HKSAR” is undefined under the CDTA, according to a general rule of interpretation provided in the CDTA for terms used but not defined therein, when the HKSAR applies the CDTA, the term could have the meaning that it has at that time under the applicable tax laws of the HKSAR, unless the context otherwise requires.

Other related amendments

18. In general, a re-domiciled company will be treated in the same way as a Hong Kong-incorporated company. In order to achieve such policy intent, amendments will be introduced to the CO and other enactments such that those enactments may apply also to re-domiciled companies. Specifically, amendments to be made to the CO and other enactments largely concern the following—

- (a) **General deeming provision:** A general deeming provision will be added to the effect that for the purposes of the laws of Hong Kong, a re-domiciled company will be regarded as a company incorporated in Hong Kong, subject to certain exceptions. Those exceptions reflect the policy intent that the general deeming provision is not applicable, or does not have effect, under specified circumstances or in relation to certain provisions of specified enactments;
- (b) **Definition of “company”:** the definition of “company” in the CO will be expanded to cover a re-domiciled company. Many enactments currently define “company” with direct reference to the definition in the CO and therefore the expanded definition under the CO will automatically apply to these enactments. For certain enactments under which “company” is individually defined without direct reference to the CO, amendments are required to expressly include a re-domiciled company to align with the expanded definition of “company” in the amended CO;
- (c) **References to “a company incorporated outside Hong Kong” and “a company incorporated in Hong Kong”:** the re-domiciliation mechanism would operate to the effect that a re-domiciled company will have its domicile transferred to Hong Kong, while the place in which the company is formed or incorporated will not change. In other words, a reference in the CO and other enactments to “a company incorporated in Hong Kong” currently does not cover a re-domiciled

company while a reference to “a company incorporated outside Hong Kong” does. Where appropriate, amendments are to be made to the CO and certain other enactments to make it clear that provisions currently applicable to “a company incorporated in Hong Kong” will also apply to a re-domiciled company, and those applicable to “a company incorporated outside Hong Kong” will not apply to a re-domiciled company. Certain provisions currently applicable to a company formed and registered under the CO are to be amended, where appropriate, so that they could also apply to a re-domiciled company; and

- (d) **Technical modifications:** as certain provisions in the CO and other enactments currently applicable to a Hong Kong-incorporated company will need to apply also to a re-domiciled company, other modifications are also required to be made to those provisions to accommodate the unique circumstances of a re-domiciled company. For instance, provisions with references to “certificate of incorporation” or “date of incorporation” of a Hong Kong-incorporated company, or provisions that are applicable or relevant to such a certificate or date, would need to be expanded or modified to include references to a “certificate of re-domiciliation” or “date of re-domiciliation” of a re-domiciled company.

Facilitative arrangements for companies with existing business in Hong Kong

19. We envisage that a majority of applicants seeking to re-domicile to Hong Kong would have been registered under Part 16 of the CO as registered non-Hong Kong companies with existing business in Hong Kong. To facilitate business continuity of these companies, specific arrangements will be provided for in the CO and the Business Registration Ordinance (Chapter 310), such that after re-domiciliation, a non-Hong Kong-incorporated company that ceases to be a registered non-Hong Kong company upon its re-domiciliation may retain its company name in use to carry on business in Hong Kong (i.e., its corporate name or approved name as defined in the CO) and business registration number. The simultaneous business registration arrangement between the CR and the Inland Revenue Department will also apply to company re-domiciliation applications.

20. Under the CO, a registered non-Hong Kong company is subject

to a number of reporting obligations. Transitional provisions will be introduced to clarify that certain obligations of a registered non-Hong Kong company which are yet to be complied with immediately before the company becomes a re-domiciled company still need to be complied with notwithstanding its re-domiciliation to ensure completeness of records of that company.

Authorization arrangements for existing insurers and authorized institutions

21. Some prospective re-domiciled companies may be carrying on activities that are regulated by Hong Kong financial regulators, including the Insurance Authority (IA) and the Hong Kong Monetary Authority (HKMA). In the insurance and banking regulatory regimes, there are some differences in the regulatory requirements in respect of Hong Kong-incorporated and non-Hong Kong-incorporated entities⁶. Amendments will be made to the Insurance Ordinance (Chapter 41) (IO), Banking Ordinance (Chapter 155) (BO) and relevant subsidiary legislation to-

- (a) provide that an authorized insurer, or an authorized institution (AI), a holding company of an AI or an approved money broker incorporated outside Hong Kong that has been registered by the CR as a re-domiciled company and has fulfilled its obligations of deregistration from its original domicile will be treated as if it were incorporated in Hong Kong. In making this effective upon its fulfillment of deregistration obligations, instead of upon the issue of

⁶ Under the insurance regulatory regime, an authorized insurer that is incorporated in Hong Kong (Hong Kong-incorporated insurer) must maintain separate accounts and funds in respect of its general business and specified parts of long term business (sections 21B & 25AA of the IO), while non-Hong Kong-incorporated insurers may elect to maintain the same for its general business and specified parts of long term business carried on in or from Hong Kong (sections 22B & 25AAD of the IO). Requirements to obtain the IA's prior approval for appointment of certain key personnel such as directors and shareholder controllers are only applicable to Hong Kong-incorporated insurers and designated insurers (i.e., non-Hong Kong-incorporated insurers regarded by the IA as carrying on a majority of its insurance business in or from Hong Kong) (sections 13AC & 13B of the IO); while only non-Hong Kong-incorporated insurers are required to maintain assets in Hong Kong in respect of its general business with onshore risk (section 25A of the IO & rule 4 of the Insurance (Maintenance of Assets in Hong Kong) Rules (Chapter 41 subsidiary legislation T)).

Under the banking regulatory regime, the HKMA is the home supervisory authority of authorized institutions (AIs) incorporated in Hong Kong and the host supervisory authority of AIs incorporated outside Hong Kong. Certain requirements only apply to AIs incorporated in Hong Kong, such as the Banking (Capital) Rules (Chapter 155 subsidiary legislation L) and the requirements to obtain the HKMA's prior consent to be a shareholder controller or director (sections 70 and 71 of the BO). Meanwhile, AIs incorporated outside Hong Kong are subject to the relevant requirements imposed by their home supervisory authority, which should have been assessed by the HKMA as capable of meeting the Basel standards relating to the supervision of internationally active banks.

certificate of re-domiciliation by the CR, the intention is to avoid the possibility of consequential change in regulatory treatment within a short period of time in the event that the entity fails to deregister from its original domicile and as a result its re-domiciliation registration under the amended CO is revoked; and

- (b) require non-Hong Kong-incorporated authorized insurers and AIs, holding companies of AIs and approved money brokers to approach the IA or the HKMA (as the case requires) before making the re-domiciliation application to the CR, such that necessary assessment on their capability in fulfilling the applicable requirements upon re-domiciliation (including those in terms of capital and corporate governance where relevant) can be conducted in advance.

OTHER OPTIONS

22. Introducing legislative amendments to the CO and other related enactments is the only option to introduce the company re-domiciliation regime.

THE BILL

23. The Bill is divided into 4 Parts—

- (a) Part 1 sets out the short title;
- (b) Part 2 contains amendments to the CO. The main provisions of this Part are set out as follows –
 - (i) Clause 3 amends the existing definitions of “company” and “non-Hong Kong company” so as to enable a company incorporated outside Hong Kong that has become a re-domiciled company to be regulated, as far as possible, in the same way as a company formed and registered under the CO. Clause 3 also adds new definitions (including the definition of “re-domiciled company”) for the interpretation of certain new terms to be used in the amended CO. A deeming provision as mentioned in paragraph 18(a) above is also added to the

CO by clause 3;

(ii) Clause 68 introduces a new Part (Part 17A) to the CO to provide for the application procedures for and the effect of a company registration under that Part as well as miscellaneous duties of a re-domiciled company –

- Part 17A contains eight new sections (sections 820A to 820H);
- section 820A seeks to define certain expressions used in Part 17A. These expressions include “certificate of re-domiciliation”, “place of incorporation”, “re-domiciliation date” and “re-domiciliation form”;
- section 820B provides for the application requirements under Part 17A;
- section 820C deals with the consideration of application and registration of the applicant by the R of C;
- section 820D provides for the effect of being registered under section 820C;
- section 820E sets out the requirement for deregistration in the applicant’s place of incorporation;
- section 820F provides for the effect of failing to comply with section 820E; and
- sections 820G and 820H provide for miscellaneous or related matters;

(iii) Clause 76 introduces new Schedules 6A, 6B and 6C to the CO to provide for the detailed requirements and information to be submitted for a re-domiciliation application. Schedules 6A and 6B provide for information and statements to be contained in the re-domiciliation form; and Schedule 6C provides for the documents to accompany the re-domiciliation form when making the application, including certificates and legal opinion in support of the application by the applicant;

(iv) Clauses 4 to 67 and 69 to 75 relate to amendments required to be made to other parts of the CO as a result of the introduction of Part 17A. Because of the

amendments under these clauses, (i) existing provisions in the CO which are applicable to a locally-incorporated company would, with appropriate modifications, also be applicable to a re-domiciled company; and (ii) except for the cases mentioned in the transitional provisions⁷, existing provisions which are applicable to a company incorporated outside Hong Kong would not be applicable to a re-domiciled company;

- (c) Part 3 amends existing provisions in the Companies (Disclosure of Company Name and Liability Status) Regulation (Chapter 622 subsidiary legislation B), Companies (Directors' Report) Regulation (Chapter 622 subsidiary legislation D), Companies (Non-Hong Kong Companies) Regulation (Chapter 622 subsidiary legislation J), Companies (Fees) Regulation (Chapter 622 subsidiary legislation K), and Non-Hong Kong Companies (Disclosure of Company Name, Place of Incorporation and Members' Limited Liability) Regulation (Chapter 622 subsidiary legislation M) to clarify or expand their application to re-domiciled companies and to provide for the fee items for certain matters relating to the registration under Part 17A of the CO. These matters include the making of an application under that Part and inspecting or obtaining documents or information of re-domiciled companies; and
- (d) Part 4 contains related amendments to 39 other enactments, including the IRO, IO and BO. A list of these enactments is in **Annex D**.

D

LEGISLATIVE TIMETABLE

24. The legislative timetable is as follows –

Publication in the Gazette	20 December 2024
First Reading and commencement of Second Reading debate	8 January 2025
Resumption of Second Reading debate,	to be notified

⁷ Please see paragraph 20 above.

IMPLICATIONS OF THE PROPOSAL

25. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The proposal will not affect the binding effect of the existing provisions of the CO, IRO and other related enactments. Apart from financial and economic implications as set out in **Annex E**, it has no productivity, environmental, sustainability, family or gender implications.

26. There are also no civil service implications for the Government at this stage as the CR will absorb the additional workload with its existing manpower resources. Should the proposal result in much additional workload which cannot be absorbed by the CR or other bureaux or departments of which the policies will have interface with re-domiciled companies in future, additional resources will be sought with justifications in accordance with the established mechanism.

PUBLIC CONSULTATION

27. We conducted a public consultation exercise from March to May 2023, during which we reached out to various stakeholders including business chambers, professional associations and relevant advisory bodies. We also briefed the LegCo Panel on Financial Affairs on the proposal on 3 July 2023. The public and the LegCo generally supported the introduction of a company re-domiciliation regime. In particular, we note that there is a strong demand for the proposed company re-domiciliation mechanism from the insurance sector. We also considered and accepted suggestions from stakeholders on streamlining the application requirements and procedures as detailed in **Annex F**.

PUBLICITY

28. A press release will be issued on the gazettal of the Bill. A spokesperson will be made available for answering media enquiries.

BACKGROUND

29. In 2021, we put in place the fund re-domiciliation mechanisms for open-ended fund companies and limited partnership funds to attract existing non-Hong Kong fund corporations and non-Hong Kong funds to operate in Hong Kong. Upon re-domiciliation, the continuity of the fund corporations and funds concerned (their legal entity, contracts made, property, rights, privileges, obligations, etc.) can be preserved. These mechanisms have already recorded utilisation by non-Hong Kong fund corporations and non-Hong Kong funds.

30. In the Policy Address 2023 and the 2024-25 Budget, the Government announced the proposal to introduce a company re-domiciliation mechanism to facilitate non-Hong Kong-incorporated companies to re-domicile to Hong Kong.

31. Comparable jurisdictions including Australia, New Zealand and Singapore have already put in place re-domiciliation regimes to facilitate inward re-domiciliation of foreign companies. Traditional offshore jurisdictions in which registered non-Hong Kong companies with business in Hong Kong are incorporated, including British Virgin Islands, Cayman Islands, Bermuda and Marshall Islands, also have regimes allowing outward transfer of domicile.

ENQUIRIES

32. Enquiries relating to this Brief can be directed to Mr Eric LEE, Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) at 2528-9016.

Financial Services and the Treasury Bureau
18 December 2024

Companies (Amendment) (No. 2) Bill 2024**Contents**

Clause	Page
Part 1	
Preliminary	
1. Short title.....	1
2. Enactments amended.....	1
Part 2	
Amendments to Companies Ordinance (Cap. 622)	
3. Section 2 amended (interpretation)	2
4. Section 53 amended (interpretation)	4
5. Section 71 amended (issue of certificate of incorporation on registration)	4
6. Section 78 amended (Financial Secretary may prescribe model articles).....	5
7. Section 80 amended (application of model articles to limited company).....	5
8. Section 83 amended (members' liabilities).....	6
9. Section 85 amended (capital and initial shareholdings)	6
10. Section 86 amended (effect of articles).....	6
11. Section 89 amended (alteration of company's objects).....	7

Clause	Page
12. Section 100 amended (company must not be registered by certain names)	7
13. Section 110 amended (Registrar may change company name in case of failure to comply with direction)	8
14. Section 132 amended (issue of fresh certificate of incorporation).....	9
15. Section 139 amended (repeal of power to issue share warrants)	9
16. Section 334 amended (specified charge).....	10
17. Section 336A added	10
336A. Supplementary provisions for section 336—where company incorporated outside Hong Kong ceases to be registered non-Hong Kong company because of registration under section 820C.....	10
18. Section 337 amended (consequences of contravention of section 335 or 336).....	11
19. Sections 338A and 338B added	12
338A. Re-domiciled company must register charge created by company before re-domiciliation date and charge existing on property acquired before re-domiciliation date	12
338B. Meaning of <i>specified instrument</i> —for section 338A.....	14

Clause	Page
20. Section 339A added	15
339A. Supplementary provisions for section 339— where company incorporated outside Hong Kong ceases to be registered non-Hong Kong company because of registration under section 820C.....	15
21. Section 340A added	16
340A. Supplementary provisions for section 340— where company incorporated outside Hong Kong ceases to be registered non-Hong Kong company because of registration under section 820C.....	16
22. Section 341 amended (company or registered non-Hong Kong company must register particulars of issue of debentures).....	17
23. Section 342 amended (company or registered non-Hong Kong company must register particulars of commission etc. in relation to debentures).....	17
24. Section 346 amended (extension of time for registration)	19
25. Section 357 amended (interpretation)	19
26. Section 361 amended (small private company)	19
27. Section 362 amended (eligible private company)	20
28. Section 364 amended (group of small private companies).....	20
29. Section 365 amended (group of eligible private companies)	20

Clause	Page
30. Section 368 amended (accounting reference period)	20
31. Section 369 amended (primary accounting reference date)	21
32. Section 395 amended (appointment of first auditor by directors)	22
33. Section 412 amended (rights in relation to information).....	23
34. Section 431 amended (period for laying and sending financial statements etc.).....	23
35. Section 453 amended (public company and company limited by guarantee required to have at least 2 directors)	24
36. Section 454 amended (private company required to have at least one director).....	25
37. Section 474 amended (company required to have company secretary).....	25
38. Section 500 amended (company must not make loan etc. to director or body corporate controlled by director)	26
39. Section 501 amended (specified company must not make quasi-loan etc. to director).....	27
40. Section 502 amended (specified company must not make loan or quasi-loan etc. to connected entity).....	27
41. Section 503 amended (specified company must not enter into credit transaction etc. as creditor for director or connected entity)	28

Clause	Page
42. Section 504 amended (company must not take part in arrangement purporting to circumvent sections 500 to 503).....	29
43. Section 521 amended (company must not make payment for loss of office to director or former director).....	29
44. Section 522 amended (person must not make payment for loss of office to director or former director in connection with transfer of company's undertaking or property).....	30
45. Section 523 amended (person must not make payment for loss of office to director or former director in connection with transfer of shares resulting from takeover offer).....	30
46. Section 610 amended (requirement to hold annual general meeting)	31
47. Section 622 amended (registration of and requirements relating to certain resolutions, etc.)	32
48. Section 645 amended (duty to notify Registrar of appointment and change)	32
49. Section 652 amended (duty to notify Registrar of appointment and change)	32
50. Section 658 amended (registered office of company).....	33
51. Section 662 amended (requirement to deliver annual return)	33
52. Section 744 amended (Registrar may send inquiry letter to company).....	34

Clause	Page
53. Section 745 amended (Registrar must follow up under certain circumstances).....	35
54. Section 747 amended (Registrar's duty to act in case of company being wound up)	35
55. Section 772 amended (Registrar may change company name in case of failure to comply with direction)	36
56. Section 774 amended (interpretation)	36
57. Section 776 amended (certain non-Hong Kong companies must apply for registration)	37
58. Section 778A added	39
778A. Supplementary provisions for section 778— where company incorporated outside Hong Kong ceases to be registered non-Hong Kong company because of registration under section 820C.....	39
59. Section 779 amended (registration of corporate name).....	39
60. Section 787A added	40
787A. Supplementary provisions for section 787— where company incorporated outside Hong Kong ceases to be registered non-Hong Kong company because of registration under section 820C.....	40
61. Section 788A added	42
788A. Supplementary provisions for section 788— where company incorporated outside Hong Kong	

Clause	Page
	ceases to be registered non-Hong Kong company because of registration under section 820C..... 42
62.	Section 789 amended (company must deliver accounts for registration)..... 43
63.	Section 789A added 43
	789A. Supplementary provisions for section 789— where company incorporated outside Hong Kong ceases to be registered non-Hong Kong company because of registration under section 820C..... 43
64.	Section 790 amended (directors may revise accounts not complying with certain requirement)..... 44
65.	Section 791 amended (company must deliver return for registration in case of change of certain particulars)..... 45
66.	Section 791A added 46
	791A. Supplementary provisions for section 791— where company incorporated outside Hong Kong ceases to be registered non-Hong Kong company because of registration under section 820C..... 46
67.	Section 804 amended (Financial Secretary may make regulations) 47
68.	Part 17A added..... 47

Part 17A

Re-domiciled Companies

Clause	Page
	Division 1—Preliminary
820A.	Interpretation..... 48
	Division 2—Registration
820B.	Application requirements..... 49
820C.	Consideration of application and registration by Registrar 50
820D.	Effect of registration under section 820C 52
820E.	Deregistration in place of incorporation..... 53
820F.	Revocation of registration under this Ordinance..... 54
	Division 3—Miscellaneous or Related Matters
820G.	Delivery of director's written consent..... 55
820H.	Reporting duty of re-domiciled companies after registration under section 820C 56
69.	Section 841 amended (appointment of inspector on Court's or Financial Secretary's initiative) 58
70.	Section 905 amended (costs in action by company etc.)..... 59
71.	Section 911 amended (Financial Secretary and Registrar may amend Schedules) 59
72.	Schedule 2 amended (content of incorporation form)..... 60
73.	Schedule 3 amended (specified qualifying conditions for sections 361 to 366A) 60

Clause	Page
74. Schedule 5B amended (required particulars of significant controllers)	60
75. Schedule 6 amended (information to be contained in annual return and documents by which annual return must be accompanied)	62
76. Schedules 6A, 6B and 6C added	62
Schedule 6A Information and Statements to be Contained in Re-domiciliation Form	62
Schedule 6B Directors and Company Secretary of Re-domiciled Company	72
Schedule 6C Documents to Accompany Re-domiciliation Form	79
77. Schedule 7 amended (offences in respect of which proceedings not instituted under certain conditions)	88
78. Schedule 11 amended (transitional and saving provisions)	88
79. Schedule 12 added	88
Schedule 12 Provisions Specified for Section 2(5C)(c)	88

Part 3

Amendments to Subsidiary Legislation Made under Companies Ordinance (Cap. 622)

Division 1—Companies (Disclosure of Company Name and Liability Status) Regulation (Cap. 622 sub. leg. B)

Clause	Page
80. Section 3 amended (display of registered name at registered office, etc)	90
Division 2—Companies (Directors' Report) Regulation (Cap. 622 sub. leg. D)	
81. Section 4 amended (donations)	90
Division 3—Companies (Non-Hong Kong Companies) Regulation (Cap. 622 sub. leg. J)	
82. Title amended	91
83. Section 2 amended (interpretation)	91
84. Section 3 amended (particulars to be contained in application for registration)	92
85. Section 4 amended (documents to accompany application for registration)	92
86. Section 7 amended (contents of application under section 5 and return under section 6)	94
87. Section 9 amended (particulars to be contained in annual return)	94
88. Section 10 amended (interpretation)	94
Division 4—Companies (Fees) Regulation (Cap. 622 sub. leg. K)	
89. Schedule 1 amended (fees payable in relation to registration of companies or for registration of documents)	95
90. Schedule 2 amended (fees for inspecting or obtaining documents or information)	96

Clause	Page
91. Schedule 4 amended (miscellaneous fees payable under Ordinance).....	97
Division 5—Non-Hong Kong Companies (Disclosure of Company Name, Place of Incorporation and Members' Limited Liability) Regulation (Cap. 622 sub. leg. M)	
92. Title amended.....	97
93. Section 2 amended (interpretation)	98
94. Section 3 amended (display of name and place of incorporation at business venue).....	98
95. Section 4 amended (name and place of incorporation to appear in communication documents etc.).....	100
96. Section 6 amended (duty to disclose certain matters while in liquidation).....	100
Part 4	
Related Amendments to Other Enactments	
Division 1—Trustee Ordinance (Cap. 29)	
97. Section 2 amended (interpretation)	101
98. Section 41Y amended (transfer of movable property not affected by foreign law of inheritance)	101
99. Section 68 amended (transfer of trust securities into name of Official Trustee).....	101

Clause	Page
100. Section 77 amended (application by company to be registered as a trust company)	103
101. Section 95 amended (investigation by inspector).....	103
Division 2—Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32)	
102. Section 2 amended (interpretation)	104
103. Section 38B amended (advertisements concerning prospectuses).....	106
104. Section 43 amended (prohibition of allotment in certain cases unless statement in lieu of prospectus delivered to Registrar)	106
105. Section 177 amended (circumstances in which company may be wound up by court)	106
106. Section 274 amended (liability where proper records not kept)	107
107. Section 327A amended (oversea companies may be wound up although dissolved)	108
108. Section 341A added	108
341A. Interpretation of Part XII.....	109
109. Section 360BA added.....	109
360BA. Power of Chief Executive in Council to order Registrar to refuse registration if satisfied that	

Clause	Page
application to re-domicile is made to evade Societies Ordinance.....	109
110. Section 360C amended (power of the Chief Executive in Council to order company engaging in undesirable activities to be struck off).....	110
111. Third Schedule amended (matters to be specified in prospectus and reports to be set out therein).....	111
112. Nineteenth Schedule amended (contents and publication requirements of advertisements mentioned in section 38b(2)(e) of this Ordinance).....	112
113. Twentieth Schedule amended (amendment of prospectus consisting of one document).....	112
114. Twenty-third Schedule amended (parent and subsidiary undertakings).....	113
Division 3—Companies (Reports on Conduct of Directors) Regulation (Cap. 32 sub. leg. J)	
115. Schedule amended.....	113
Division 4—Companies (Exemption of Companies and Prospectuses from Compliance with Provisions) Notice (Cap. 32 sub. leg. L)	
116. Section 2 amended (interpretation).....	114
Division 5—Insurance Ordinance (Cap. 41)	
117. Section 2 amended (interpretation).....	114

Clause	Page
118. Section 3B amended (designation of non-HK insurer).....	116
119. Sections 3BA, 3BB and 3BC added.....	116
3BA. Non-HK insurer to become re-domiciled insurer.....	116
3BB. Company incorporated outside Hong Kong that is not authorized insurer to become re-domiciled insurer.....	118
3BC. Interpretation for sections 3BA and 3BB.....	118
120. Section 5H amended (register of authorized insurers).....	118
121. Section 8 amended (authorization—long term business and general business).....	119
122. Section 9 amended (meaning of <i>controller</i> (控權人)).....	119
123. Section 13A amended (approval of certain controllers of authorized insurers).....	119
124. Section 13AC amended (approval of directors of HK insurers or designated insurers).....	120
125. Section 13AE amended (approval of key persons in control functions of certain authorized insurers).....	120
126. Section 13AF amended (conditions on approval given under sections 13A, 13AC, 13AE and 13B).....	121
127. Section 13B amended (approval of persons proposing to become shareholder controllers of certain HK insurers or designated insurers).....	122

Clause	Page
128. Section 13BA amended (objection to being shareholder controllers)	122
129. Section 15AAA amended (appointment of actuary)	122
130. Section 15AAD amended (person who is authorized insurer's actuary under section 15AAA(1)(a) or (b) immediately before certain events continues to be so).....	123
131. Section 15AAE amended (person who is authorized insurer's actuary under section 15AAA(1)(c) or (d) immediately before certain events continues to be so).....	123
132. Section 17 heading amended (submission of statements, report or other information)	124
133. Section 35 amended (residual power to impose requirements, etc.)	124
134. Section 51 amended (exempted persons).....	124
135. Section 53B amended (disclosure of information).....	125
136. Section 64P amended (duty to notify Authority of change in particulars)	125
137. Section 72 amended (licensed insurance broker company must appoint auditor)	125
138. Section 78 amended (exemptions for authorized insurers, etc.)	126
139. Section 95A amended (interpretation of Part XIA).....	126

Clause	Page
140. Schedule 9 amended (specified decisions).....	126
Division 6—Insurance (Financial and Other Requirements for Licensed Insurance Broker Companies) Rules (Cap. 41 sub. leg. L)	
141. Rule 2 amended (interpretation).....	127
Division 7—Insurance (Group Capital) Rules (Cap. 41 sub. leg. O)	
142. Rule 8 amended (treatment of double-counting).....	127
Division 8—Inland Revenue Ordinance (Cap. 112)	
143. Section 2 amended (interpretation)	130
144. Section 17A amended (financial institution: interpretation)	130
145. Section 23 amended (ascertainment of assessable profits: life insurance business)	131
146. Section 23AAA amended (ascertainment of assessable profits: non-life long term insurance business)	131
147. Section 23AAAC amended (adjustment to assessable profits due to change in insurance capital requirements: election).....	131
148. Section 23AAAD amended (adjustment to assessable profits due to change in insurance capital requirements: life insurance business)	132
149. Section 23AAAE amended (adjustment to assessable profits due to change in insurance capital requirements: non-life long term insurance business)	132
150. Section 23AA amended (mutual insurance corporations).....	133

Clause	Page
151. Part 6H added.....	133
Part 6H	
Tax Treatment for Re-domiciled Company	
40AZA. Schedule 17L: tax treatment for re-domiciled company.....	133
152. Section 50A amended (interpretation)	134
153. Schedule 17L added	134
Schedule 17L Tax Treatment for Re-domiciled Company	134
154. Schedule 45 amended (deduction of R&D expenditures).....	156
Division 9—Banking Ordinance (Cap. 155)	
155. Section 2 amended (interpretation)	157
156. Section 20 amended (register of authorized institutions, etc.)	158
157. Part VIIA added	159
Part VIIA	
Approval for Re-domiciliation	
43A. Interpretation of Part VIIA	159
43B. Prohibition against making registration application by bank	160
43C. Restriction on registration application by specified entity	160

Clause	Page
43D. Application for Monetary Authority's approval for making registration application	161
43E. Consideration of application made under section 43D.....	161
43F. Notice to be given to the Monetary Authority if specified entity becomes re-domiciled company	162
43G. Notice to be given to the Monetary Authority if specified entity is deregistered in its place of incorporation	163
158. Section 49 amended (control of establishment, etc. of overseas branches and overseas representative offices).....	164
159. Section 51A amended (control of establishment, etc. of overseas banking corporations).....	165
160. Section 52 amended (powers of Monetary Authority).....	166
161. Section 53B amended (effect of direction under section 52(1)(C))	168
162. Section 53C amended (powers of Manager).....	168
163. Section 53G amended (Advisors, Managers and assistants)	169
164. Section 60AA added	169
60AA. Supplementary provisions for section 60—where authorized institution becomes a re-domiciled entity	170

Clause	Page
165. Section 63 amended (returns and information to be submitted to the Monetary Authority)	171
166. Section 65 amended (alteration in constitution)	171
167. Section 68 amended (examination by authorities outside Hong Kong)	172
168. Section 68H amended (holding company of authorized institution)	172
169. Section 71D substituted	173
71D. Appointment of executive officers	173
170. Section 97 amended (restrictions on use of name “bank”)	174
171. Section 132A amended (appeals)	174
172. Seventh Schedule amended (minimum criteria for authorization)	175
173. Eighth Schedule amended (grounds for revocation of authorization)	176
174. Ninth Schedule amended (powers of Manager of authorized institution)	176
175. Eleventh Schedule amended (minimum criteria for approval as money broker)	177
176. Twelfth Schedule amended (grounds for revocation of money broker)	178
Division 10—Banking (Capital) Rules (Cap. 155 sub. leg. L)	

Clause	Page
177. Section 9 amended (circumstances in which Monetary Authority shall take into account assessment outside Hong Kong of rating system used by authorized institution)	178
178. Section 33 amended (exceptions to section 27)	178
179. Schedule 4B amended (qualifying criteria to be met to be Additional Tier 1 capital)	179
180. Schedule 4C amended (qualifying criteria to be met to be Tier 2 capital)	180
181. Schedule 4D amended (requirements to be met for minority interests and capital instruments issued by consolidated bank subsidiaries and held by third parties to be included in authorized institution’s capital base)	180
Division 11—Banking (Liquidity) Rules (Cap. 155 sub. leg. Q)	
182. Rule 2 amended (interpretation)	181
183. Rule 2AA added	182
2AA. Supplementary provisions regarding re-domiciled entities	182
184. Rule 10 amended (calculation of LCR, LMR, NSFR or CFR on Hong Kong office basis and unconsolidated basis, etc.)	182
185. Rule 12 amended (calculation of LCR, LMR, NSFR or CFR of authorized institution incorporated in Hong Kong on basis other than those under rules 10 and 11)	182

Clause	Page
186. Rule 22 amended (calculation of LCR on unconsolidated or consolidated basis, etc. when there are different liquidity requirements between Hong Kong and host countries).....	183
187. Rule 28 amended (HQLA must have diversification of classes of assets, etc.).....	183
188. Rule 64 amended (calculation of NSFR on unconsolidated or consolidated basis, etc. when there are different liquidity requirements between Hong Kong and host countries).....	184
189. Schedule 1 amended (grounds for designating authorized institution as category 1 institution and exceptions to those grounds)	185
190. Schedule 2 amended (classes of assets which may be included in HQLA for calculating LCR and qualifying criteria applicable to those classes)	185
Division 12—Banking (Exposure Limits) Rules (Cap. 155 sub. leg. S)	
191. Rule 6 amended (Monetary Authority may require applying these Rules on unconsolidated or consolidated basis).....	188
192. Rule 48 amended (exposure disregarded).....	189
Division 13—Business Registration Ordinance (Cap. 310)	
193. Section 2 amended (interpretation and application).....	189
194. Section 4 amended (official secrecy)	191
195. Section 5BB added.....	191

Clause	Page
5BB. Simultaneous business registration applications of re-domiciled companies.....	192
196. Section 5C amended (Registrar to perform certain functions in relation to simultaneous business registration applications).....	192
197. Section 5D amended (notices in specified form)	193
198. Section 6 amended (registration of business and issue of business registration certificate).....	194
199. Section 7A amended (refund of prescribed business registration fees, prescribed branch registration fees or levies).....	194
200. Section 8 amended (information to be furnished).....	195
201. Section 9 amended (exemption from payments of fees for small businesses).....	196
202. Section 16 amended (exemptions)	196
203. Schedule 1 amended.....	197
204. Schedule 2 amended.....	198
Division 14—Business Registration Regulations (Cap. 310 sub. leg. A)	
205. Regulation 3A amended (business particulars in relation to simultaneous business registration applications)	199
206. Regulation 3B added.....	199

Clause	Page
3B. Business particulars in relation to re-domiciled company already registered under Ordinance before re-domiciliation date	200
207. Regulation 4 amended (the register)	200
208. Regulation 9 amended (forms).....	201
Division 15—The Hong Kong Association of Banks Ordinance (Cap. 364)	
209. Section 2 amended (interpretation)	201
210. Section 8 amended (Committee).....	201
211. Section 9 amended (Consultative Council)	202
212. Section 16 amended (Disciplinary Committee)	203
Division 16—The Hong Kong Association of Banks By-laws (Cap. 364 sub. leg. A)	
213. By-law 2 amended (nomination of elected members of the Committee)	204
214. By-law 16 amended (record of members eligible to be elected members of Consultative Council).....	205
215. By-law 17 amended (nomination of elected members of the Consultative Council)	205
Division 17—Control of Obscene and Indecent Articles Ordinance (Cap. 390)	
216. Section 2 amended (interpretation)	206
Division 18—Merchant Shipping (Registration) Ordinance (Cap. 415)	
217. Section 2 amended (interpretation)	207

Clause	Page
218. Section 11 amended (registrable ships).....	207
219. Section 20 amended (declarations by and on behalf of owners and demise charterers).....	208
220. Section 21 amended (evidence on first registration)	210
221. Section 44 amended (mortgage of ship).....	212
222. Section 48 amended (transfer of mortgage)	212
223. Section 49 amended (transmission of mortgage by operation of law)	212
224. Section 55 amended (notice of dissolution, etc. of body corporate owner or charterer).....	212
225. Section 68 amended (representative person).....	214
Division 19—Occupational Retirement Schemes Ordinance (Cap. 426)	
226. Section 22 amended (certain changes to be notified).....	214
Division 20—Occupational Retirement Schemes (Fees) Rules (Cap. 426 sub. leg. D)	
227. Schedule amended (fees).....	215
Division 21—Occupational Retirement Schemes (Notices of Changes) Rules (Cap. 426 sub. leg. J)	
228. Section 7 amended (notice of change of name or address of the administrator or designated person of a registered scheme)	216
Division 22—Mandatory Provident Fund Schemes Ordinance (Cap. 485)	

Clause	Page
229. Section 2 amended (interpretation)	217
Division 23—Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A)	
230. Section 2 amended (interpretation)	217
231. Section 4 amended (what is an approved overseas insurer for the purposes of this Regulation).....	218
232. Section 5 amended (what is an approved overseas trust company for the purposes of this Regulation).....	218
233. Section 16 amended (eligibility requirements for company incorporated in Hong Kong)	218
234. Section 44 amended (approved trustee to appoint investment manager)	218
235. Section 62 amended (approved trustee to notify Authority of events of significant nature)	219
236. Section 68 amended (eligibility for appointment as custodian).....	219
237. Section 71 amended (eligibility of delegate of custodian)	219
238. Schedule 1 amended (investment of scheme funds).....	220
Division 24—Mandatory Provident Fund Schemes (Exemption) Regulation (Cap. 485 sub. leg. B)	
239. Schedule 3 amended (minimum standards applicable to trustees, etc. of schemes).....	220

Clause	Page
Division 25—Securities and Futures Ordinance (Cap. 571)	
240. Section 101A amended (interpretation of Part IIIA).....	222
241. Section 103 amended (offence to issue advertisements, invitations or documents relating to investments in certain cases).....	222
242. Section 112A amended (interpretation of Part IVA).....	223
243. Section 112ZJA amended (interpretation of Division 8A of Part IVA).....	223
244. Section 175 amended (requirements for offers by intermediaries or representatives for Type 1, Type 4 or Type 6 regulated activity)	224
245. Section 179 amended (power to require production of records and documents concerning listed corporations, etc.).....	224
246. Section 381 amended (immunity in respect of communication with Commission by auditors of listed corporations, etc.).....	224
247. Schedule 1 amended (interpretation and general provisions).....	225
248. Schedule 5 amended (regulated activities).....	226
249. Schedule 7 amended (offers by intermediaries or representatives for Type 1, Type 4 or Type 6 regulated activity under section 175 of this Ordinance)	226
250. “經遷冊基金型公司” substituted for “經遷冊公司”	228

Clause	Page
Division 26—Securities and Futures (Amendment) Ordinance 2014 (6 of 2014)	
251. Section 55 amended (Schedule 11 added).....	229
Division 27—Securities and Futures (Associated Entities—Notice) Rules (Cap. 571 sub. leg. J)	
252. Section 3 amended (particulars to be notified on becoming an associated entity).....	229
Division 28—Securities and Futures (Licensing and Registration) (Information) Rules (Cap. 571 sub. leg. S)	
253. Section 5A added	230
5A. Change in domicile of corporation basic information in respect of which was provided before commencement date of Companies (Amendment) (No. 2) Ordinance 2024	230
254. Schedule 1 amended (meaning of terms <i>basic information</i> and <i>relevant information</i>).....	231
Division 29—Securities and Futures (OTC Derivative Transactions—Reporting and Record Keeping Obligations) Rules (Cap. 571 sub. leg. AL)	
255. Rule 2 amended (interpretation).....	232
Division 30—Securities and Futures (OTC Derivative Transactions—Clearing and Record Keeping Obligations and Designation of Central Counterparties) Rules (Cap. 571 sub. leg. AN)	
256. Rule 2 amended (interpretation).....	232

Clause	Page
257. Rule 6 amended (when clearing obligation arises).....	234
258. Rule 8 amended (clearing obligation does not apply to transactions with exempt affiliate)	234
Division 31—Securities and Futures (Open-ended Fund Companies) Rules (Cap. 571 sub. leg. AQ)	
259. Rule 99 amended (interpretation).....	235
260. “經遷冊基金型公司” substituted for “經遷冊公司”	235
Division 32—Deposit Protection Scheme Ordinance (Cap. 581)	
261. Section 2 amended (interpretation)	236
262. Section 13 amended (exemption).....	236
263. Section 23 amended (Monetary Authority to report to Chief Executive in Council on occurrence of specified event)	236
Division 33—Payment Systems and Stored Value Facilities Ordinance (Cap. 584)	
264. Section 8A amended (interpretation of Part 2A).....	237
Division 34—Accounting and Financial Reporting Council Ordinance (Cap. 588)	
265. Section 2 amended (interpretation)	237
266. Section 20A amended (interpretation)	238
267. Section 20ZUA added	238

Clause	Page
20ZUA. Supplemental provision for section 20ZU: where overseas entity becomes a re-domiciled company	238
Division 35—Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615)	
268. Section 53ZRK amended (application for and grant of licence).....	239
269. Section 53TZ amended (interpretation of Part 5C).....	239
270. Schedule 1 amended (interpretation).....	239
271. Schedule 2 amended (requirements relating to customer due diligence and record-keeping).....	240
272. Schedule 3D amended (associated entities—prescribed particulars)	241
273. Schedule 3J amended (information to be provided in cash transaction report)	242
Division 36—Financial Institutions (Resolution) Ordinance (Cap. 628)	
274. Section 2 amended (interpretation)	242
275. Section 24 amended (power to remove directors etc.)	243
276. Section 58 amended (bail-in instruments).....	244
Division 37—Financial Institutions (Resolution) (Loss-absorbing Capacity Requirements—Banking Sector) Rules (Cap. 628 sub. leg. B)	
277. Rule 2 amended (interpretation).....	244

Clause	Page
278. Rule 26 amended (internal LAC scalar).....	245
279. Rule 56 amended (group disclosures and internet websites).....	245
280. Schedule 2 amended (qualifying criteria to be met to be internal LAC debt instrument)	245
Division 38—Financial Institutions (Resolution) (Contractual Recognition of Suspension of Termination Rights—Banking Sector) Rules (Cap. 628 sub. leg. C)	
281. Rule 2 amended (interpretation).....	245
Division 39—Limited Partnership Fund Ordinance (Cap. 637)	
282. Section 2 amended (interpretation)	245
283. Section 7 amended (eligibility)	245
284. Section 9 amended (restrictions on limited partnership fund's name).....	245
285. Section 29 amended (duty to keep records)	245
286. Section 42 amended (Registrar may direct limited partnership fund to change same or similar name, etc.).....	245
287. Schedule 1 amended (information required in application for registration as limited partnership fund)	245

A BILL

To

Amend the Companies Ordinance (including its subsidiary legislation) to provide for a regime to enable a company incorporated outside Hong Kong to transfer its domicile to Hong Kong; to provide for related matters; and to make related or technical amendments to the Ordinance and other enactments.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title

This Ordinance may be cited as the Companies (Amendment) (No. 2) Ordinance 2024.

2. Enactments amended

The enactments specified in Parts 2, 3 and 4 are amended as set out in those Parts.

Part 2

Amendments to Companies Ordinance (Cap. 622)

3. Section 2 amended (interpretation)

- (1) Section 2(1), definition of *company*, paragraph (a)—

Repeal

“or”.

- (2) Section 2(1), definition of *company*, paragraph (b)—

Repeal the semicolon

Substitute

“; or”.

- (3) Section 2(1), definition of *company*, after paragraph (b)—

Add

“(c) a re-domiciled company;”.

- (4) Section 2(1), definition of *non-Hong Kong company*—

Repeal

“outside Hong Kong”

Substitute

“outside Hong Kong, other than a re-domiciled company,”.

- (5) Section 2(1), Chinese text, definition of 《舊有公司條例》, paragraph (c)—

Repeal

“例》。 ”

Substitute

“例》；”。

(6) Section 2(1)—

Add in alphabetical order*“certificate of re-domiciliation* (遷冊證明書) has the meaning given by section 820A;*intended RC* (籌劃中公司) has the meaning given by section 820A;*re-domiciled company* (經遷冊公司)—

(a) means a body corporate registered under section 820C(1); and

(b) includes such a body corporate a certificate in respect of which is issued under section 132(1);

re-domiciliation date (遷冊日) has the meaning given by section 820A;*re-domiciliation form* (遷冊表格) has the meaning given by section 820A;”。

(7) After section 2(5)—

Add

“(5A) A re-domiciled company is, for the purposes of the laws of Hong Kong, to be regarded as a company incorporated in Hong Kong with effect from its re-domiciliation date.

(5B) Subsection (5A) is subject to any amendment made by the Companies (Amendment) (No. 2) Ordinance 2024 (of 2024) to a provision of an Ordinance that has the effect that—

(a) for a provision that applies to a company or body corporate incorporated in Hong Kong—the

provision so amended also applies, with or without modifications, to a re-domiciled company; or

(b) for a provision that applies to a company or body corporate incorporated outside Hong Kong—the provision so amended does not apply to a re-domiciled company.

(5C) Subsection (5A)—

(a) does not apply to a re-domiciled company that is an airline;

(b) does not have the effect of regarding a re-domiciled company as a company incorporated, or formed and registered, under this Ordinance or a former Companies Ordinance; and

(c) does not apply to a provision specified in Schedule 12.”。

4. Section 53 amended (interpretation)Section 53(1), definition of *relevant correspondence address*, paragraph (a)(i), after “company”—**Add**

“or a re-domiciliation form of the company delivered to the Registrar under section 820B(2)”。

5. Section 71 amended (issue of certificate of incorporation on registration)

(1) Section 71, Chinese text, heading—

Repeal

“註冊時”

Substitute

“登記時”.

- (2) Section 71(1), Chinese text—

Repeal

“在註冊法團成立表格及根據第 67(1)(b)條交付的”

Substitute

“在登記根據第 67(1)(b)條交付的法團成立表格及”.

6. Section 78 amended (Financial Secretary may prescribe model articles)

Section 78(2)—

Repeal

“a company incorporated before the amendment takes effect.”

Substitute

“—

- (a) a company incorporated before the amendment takes effect; or
- (b) a body corporate registered under section 820C(1) before the amendment takes effect.”.

7. Section 80 amended (application of model articles to limited company)

- (1) Section 80(1), after “limited company”—

Add

“or the registration of a limited company under section 820C(1)(a) or (b)”.

- (2) Section 80(1), Chinese text—

Repeal

“註冊成”

Substitute

“登記”.

- (3) Section 80(2) and (3), Chinese text—

Repeal

“註冊”

Substitute

“登記”.

8. Section 83 amended (members' liabilities)

Section 83(2)—

Repeal

“The articles of an unlimited company formed and registered under this Ordinance”

Substitute

“For an unlimited company that is formed and registered under this Ordinance or a re-domiciled company that is registered under section 820C(1)(c) or (d) as an unlimited company, the articles of the company”.

9. Section 85 amended (capital and initial shareholdings)

Section 85(2)—

Repeal

“a company”

Substitute

“a company (including a re-domiciled company)”.

10. Section 86 amended (effect of articles)

Section 86(1), Chinese text—

Repeal

“公司的章程細則一經根據本條例或某”

Substitute

“某公司的章程細則一經根據本條例登記，或根據”。

11. Section 89 amended (alteration of company's objects)

- (1) Section 89(2)(b), Chinese text—

Repeal

“本可在”。

- (2) Section 89(2)(b)(i)—

Repeal

“formed and registered under this Ordinance”

Substitute

“that is formed and registered under this Ordinance or that is a re-domiciled company”。

- (3) Section 89(2)(b)(ii), Chinese text—

Repeal

“有關組織章程大綱註冊時，合法地載於該公司的”

Substitute

“本可在該公司的組織章程大綱登記時，合法地載於該”。

12. Section 100 amended (company must not be registered by certain names)

- (1) Section 100(1)(a)—

Repeal

“a name that”

Substitute

“subject to subsection (1A), a name that”。

- (2) After section 100(1)—

Add

“(1A) Subsection (1)(a) does not apply to a company if—

- (a) the registration by the name is for the purposes of Part 17A (*registration*);
- (b) the company was a registered non-Hong Kong company immediately before the registration; and
- (c) the name concerned was the corporate name or approved name of the company immediately before the registration.”。

- (3) After section 100(2)—

Add

“(3) In this section—

approved name (經批准名稱) has the meaning given by section 774(1);

corporate name (法團名稱) has the meaning given by section 774(1).”。

13. Section 110 amended (Registrar may change company name in case of failure to comply with direction)

- (1) Section 110(2)(a), after “certificate of incorporation”—

Add

“or the certificate of re-domiciliation”。

- (2) Section 110(2)(b), after “certificate of incorporation”—

Add

“or the certificate of re-domiciliation”。

- (3) Section 110(2)(c)(i), after “certificate of incorporation”—

Add

“or the certificate of re-domiciliation”.

- (4) Section 110(2)(c)(ii), after “certificate of incorporation”—

Add

“or the certificate of re-domiciliation”.

14. Section 132 amended (issue of fresh certificate of incorporation)

- (1) Section 132, heading—

Repeal

“Issue of fresh certificate of incorporation”

Substitute

“Issue of certificate because of re-registration”.

- (2) Section 132(1)—

Repeal

“fresh certificate of incorporation”

Substitute

“certificate”.

- (3) Section 132(4)—

Repeal

“of incorporation”.

15. Section 139 amended (repeal of power to issue share warrants)

- (1) Section 139(2)—

Repeal

“commencement date of this section”

Substitute

“specified date”.

- (2) After section 139(5)—

Add

- “(6) In this section—

specified date (指明日期)—

- (a) for a company that is not a re-domiciled company—means 3 March 2014; and
(b) for a re-domiciled company—means the re-domiciliation date.”.

16. Section 334 amended (specified charge)

- (1) Section 334(1)—

Repeal

“commencement date of this section”

Substitute

“material date”.

- (2) After section 334(4)—

Add

- “(5) In this section—

material date (關鍵日期)—

- (a) for a company that is not a re-domiciled company—means 3 March 2014; and
(b) for a re-domiciled company—means the re-domiciliation date.”.

17. Section 336A added

After section 336—

Add

“336A. Supplementary provisions for section 336—where company incorporated outside Hong Kong ceases to be

registered non-Hong Kong company because of registration under section 820C

(1) This section applies if—

- (a) a company incorporated outside Hong Kong becomes a re-domiciled company (*re-domiciliation*); and
- (b) immediately before the re-domiciliation, the company is required, but has yet, to comply with the requirement under section 336(1) (*requirement*) in relation to a charge.

(2) Despite the re-domiciliation—

- (a) the company is required to comply with the requirement in relation to the charge; and
 - (b) section 336(2), (3) and (8) applies in relation to the charge,
- as if the re-domiciliation had not taken place and the company were still a registered non-Hong Kong company.”.

18. Section 337 amended (consequences of contravention of section 335 or 336)

(1) Section 337(1)(a)—

Repeal

“specified”.

(2) Section 337(1)(b)—

Repeal

“contravenes section 336(1) in relation to a specified charge”

Substitute

“, or a company to which section 336A applies, contravenes section 336(1) in relation to a charge”.

(3) Section 337(2)—

Repeal

“or registered non-Hong Kong company” (wherever appearing).

(4) Section 337(4)—

Repeal

“specified charge is void against any liquidator and creditor of the company or registered non-Hong Kong company”

Substitute

“charge is void against any liquidator and creditor of the company”.

(5) Section 337(5)—

Repeal

“specified”.

(6) Section 337(6)—

Repeal

“specified”.

19. Sections 338A and 338B added

After section 338—

Add

“338A. Re-domiciled company must register charge created by company before re-domiciliation date and charge existing on property acquired before re-domiciliation date

(1) This section applies if—

- (a) a company incorporated outside Hong Kong has created a charge before it becomes a re-domiciled company;
 - (b) the charge subsists on the re-domiciliation date; and
 - (c) the charge is of a kind that a statement of its particulars would have been required by section 335 to be delivered for registration had the charge been created by the re-domiciled company on or after that date.
- (2) This section also applies if—
- (a) after a company incorporated outside Hong Kong has acquired property in Hong Kong or in any other place subject to a charge, it becomes a re-domiciled company;
 - (b) the charge subsists on the re-domiciliation date; and
 - (c) the charge is of a kind that a statement of its particulars would have been required by section 338 to be delivered for registration had the property been acquired by the re-domiciled company on or after that date.
- (3) Despite subsections (1) and (2), this section does not apply if the re-domiciled company has complied with section 336, 339 or 340 in relation to the charge.
- (4) The re-domiciled company must deliver a statement of the particulars of the charge to the Registrar for registration within 1 month after the re-domiciliation date.
- (5) If there is a specified instrument in relation to the charge, the re-domiciled company must deliver the statement under subsection (4) together with a certified copy of the specified instrument or, if there is more than one specified

- instrument in relation to the charge, a certified copy of any of those specified instruments.
- (6) A statement of the particulars of a charge—
- (a) must be in the specified form; and
 - (b) must be accompanied by the prescribed fee.
- (7) Subject to section 346, if a re-domiciled company contravenes subsection (4) or (5) in relation to a charge, the company, and every responsible person of the company, commit an offence.
- (8) A person who commits an offence under subsection (7) is liable on conviction to a fine at level 5 and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.
- (9) In this section—
specified instrument (指明文書)—see section 338B.

338B. Meaning of *specified instrument*—for section 338A

- (1) This section explains the meaning of *specified instrument* for the purposes of section 338A.
- (2) If—
- (a) a charge of a re-domiciled company is given in a debenture forming part of a series by reference to any other instrument containing the charge (whether or not also contained in the debenture); and
 - (b) every holder of the debentures of the series is entitled equally to the benefit of the charge,
- the instrument by reference to which the charge is given is the specified instrument in relation to the charge.
- (3) If—

- (a) a charge of a re-domiciled company is contained in a debenture forming part of a series (but not given in the debenture by reference to any other instrument); and
- (b) every holder of the debentures of the series is entitled equally to the benefit of the charge,
any one debenture of the series is a specified instrument in relation to the charge.
- (4) In relation to any other charge, an instrument creating or evidencing the charge is a specified instrument in relation to the charge.”.

20. Section 339A added

After section 339—

Add

“339A. Supplementary provisions for section 339—where company incorporated outside Hong Kong ceases to be registered non-Hong Kong company because of registration under section 820C

- (1) This section applies if—
 - (a) a company incorporated outside Hong Kong becomes a re-domiciled company (*re-domiciliation*); and
 - (b) immediately before the re-domiciliation, the company is required, but has yet, to comply with the requirement under section 339(3) (*requirement*) in relation to a charge.
- (2) Despite the re-domiciliation—
 - (a) the company is required to comply with the requirement in relation to the charge; and

- (b) section 339(6) and (7) applies in relation to the charge,
as if the re-domiciliation had not taken place and the company were still a registered non-Hong Kong company.”.

21. Section 340A added

Part 8, Division 3, after section 340—

Add

“340A. Supplementary provisions for section 340—where company incorporated outside Hong Kong ceases to be registered non-Hong Kong company because of registration under section 820C

- (1) This section applies if—
 - (a) a company incorporated outside Hong Kong becomes a re-domiciled company (*re-domiciliation*); and
 - (b) immediately before the re-domiciliation, the company is required, but has yet, to comply with the requirement under section 340(2) (*requirement*) in relation to a charge.
- (2) Despite the re-domiciliation—
 - (a) the company is required to comply with the requirement in relation to the charge; and
 - (b) section 340(3), (7) and (8) applies in relation to the charge,
as if the re-domiciliation had not taken place and the company were still a registered non-Hong Kong company.”.

22. Section 341 amended (company or registered non-Hong Kong company must register particulars of issue of debentures)

- (1) Section 341(1)(c)—

Repeal

“336(2) or 340(3)”

Substitute

“336(2), 338A(4) or 340(3)”.

- (2) Section 341(4)(a)(ii)—

Repeal

“or”.

- (3) After section 341(4)(a)—

Add

“(ab) if a statement of the particulars of the charge is delivered for registration under section 338A(4)—

- (i) in the case of an issue of debentures made on or before the re-domiciliation date, 1 month after that date; or
- (ii) in the case of any subsequent issue of debentures, 1 month after the date of the issue; or”.

23. Section 342 amended (company or registered non-Hong Kong company must register particulars of commission etc. in relation to debentures)

- (1) Section 342(1)(d)(ii)—

Repeal

“or”.

- (2) After section 342(1)(d)(ii)—

Add

“(iia) section 338A(4); or”.

- (3) After section 342(3)—

Add

“(3A) Where, in the case of subsection (1)(d)(iia), a statement of the particulars of the charge is delivered for registration under section 338A(4), the company is to be regarded as having complied with subsection (2) if it delivers a statement of the particulars of the commission, allowance or discount to the Registrar for registration within the registration period specified in subsection (6)(ba).”.

- (4) Section 342(6)(a)(ii)—

Repeal

“or”.

- (5) After section 342(6)(a)(ii)—

Add

“(iia) in the case of subsection (1)(d)(iia), 1 month after the re-domiciliation date; or”.

- (6) Section 342(6)(b)(ii)—

Repeal

“or”.

- (7) After section 342(6)(b)—

Add

“(ba) for the purposes of subsection (3A)—

- (i) in the case of an issue of debentures made on or before the re-domiciliation date, 1 month after that date; or
- (ii) in the case of any subsequent issue of debentures, 1 month after the date of the issue; or”.

24. Section 346 amended (extension of time for registration)

(1) Section 346(1)(a)—

Repeal

“338(3),”

Substitute

“338(3), 338A(4),”.

(2) Section 346(6)(a)—

Repeal

“338(5),”

Substitute

“338(5), 338A(7),”.

25. Section 357 amended (interpretation)Section 357(1), definition of *non-Hong Kong body corporate*—**Repeal**

“means a body corporate incorporated outside Hong Kong;”

Substitute

“—

(a) means a body corporate incorporated outside Hong Kong; but

(b) does not include a re-domiciled company;”.

26. Section 361 amended (small private company)

Section 361(1)—

Repeal

“this Ordinance”

Substitute

“this Ordinance or is a private company that is a re-domiciled company”.

27. Section 362 amended (eligible private company)

Section 362(1)—

Repeal

“this Ordinance”

Substitute

“this Ordinance or is a private company that is a re-domiciled company”.

28. Section 364 amended (group of small private companies)

Section 364(1)(a)—

Repeal

“this Ordinance”

Substitute

“this Ordinance or is a re-domiciled company”.

29. Section 365 amended (group of eligible private companies)

Section 365(1)(a)—

Repeal

“this Ordinance”

Substitute

“this Ordinance or is a re-domiciled company”.

30. Section 368 amended (accounting reference period)

After section 368(2)—

Add

“(2A) For a re-domiciled company, the first accounting reference period begins on its re-domiciliation date and ends on its primary accounting reference date.”.

31. Section 369 amended (primary accounting reference date)

(1) Section 369(5)—

Repeal

“a company formed and registered under this Ordinance or under a provision of the predecessor Ordinance having a continuing effect under Schedule 11 or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1)”

Substitute

“any of the companies specified in subsection (6A)”.

(2) Section 369—

Repeal subsection (6)

Substitute

“(6) A date specified for the purposes of subsection (5)(a)—

- (a) for a company that is not a re-domiciled company—must fall within 18 months after the date of the company’s incorporation; and
- (b) for a re-domiciled company—must fall within 18 months after the re-domiciliation date.”.

(3) After section 369(6)—

Add

“(6A) The following companies are specified for the purposes of subsection (5)—

- (a) a company formed and registered under this Ordinance;

(b) a company formed and registered under a provision of the predecessor Ordinance having a continuing effect under Schedule 11 or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1);

(c) a re-domiciled company.”.

(4) Section 369(7)—

Repeal the definition of *relevant date*

Substitute

“*relevant date* (有關日期)—

- (a) in relation to a company that is not a re-domiciled company—means the last day of the month in which the relevant anniversary of the company’s incorporation falls; and
- (b) in relation to a re-domiciled company—means the last day of the month in which the anniversary of the re-domiciliation date of the company falls.”.

32. Section 395 amended (appointment of first auditor by directors)

(1) Section 395(1)(a)—

Repeal

“; and”

Substitute a semicolon.

(2) Section 395(1)(b)—

Repeal

“(Cap. 1).”

Substitute

“(Cap. 1); and”.

(3) After section 395(1)(b)—

Add

“(c) a re-domiciled company.”.

33. Section 412 amended (rights in relation to information)**(1) Section 412(4)—****Repeal**

“not a company incorporated in Hong Kong”

Substitute

“neither a company incorporated in Hong Kong nor a re-domiciled company”.

(2) Section 412(9), definition of *related entity*, paragraph (b)—**Repeal**

“Hong Kong”

Substitute

“Hong Kong or a re-domiciled company”.

34. Section 431 amended (period for laying and sending financial statements etc.)**(1) Section 431(4)(a)—****Repeal**

“company’s incorporation”

Substitute

“specified event”.

(2) Section 431(5)(a)—**Repeal**

“company’s incorporation”

Substitute

“specified event”.

(3) After section 431(5)—**Add**

“(6) In this section—

specified event (指明事件)—

- (a) in relation to a company other than a re-domiciled company—means the incorporation of the company; and
- (b) in relation to a re-domiciled company—means the registration of the company under section 820C(1).”.

35. Section 453 amended (public company and company limited by guarantee required to have at least 2 directors)**(1) Section 453(3)—****Repeal**

“With effect from the date of incorporation of the company”

Substitute

“For a company formed and registered under this Ordinance, with effect from the date of incorporation”.

(2) After section 453(3)—**Add**

“(3A) For a re-domiciled company that is a public company, with effect from the re-domiciliation date, the first directors of the company are the persons named in the re-domiciliation form delivered to the Registrar under section 820B(2) as the first directors of the company after it is registered under section 820C(1).”.

36. Section 454 amended (private company required to have at least one director)**(1) Section 454(2)—****Repeal**

“With effect from the date of incorporation of a private company”

Substitute

“For a private company formed and registered under this Ordinance, with effect from the date of incorporation”.

(2) After section 454(2)—**Add**

“(2A) For a re-domiciled company that is a private company, with effect from the re-domiciliation date, the first directors of the company are the persons named in the re-domiciliation form delivered to the Registrar under section 820B(2) as the first directors of the company after it is registered under section 820C(1).”.

37. Section 474 amended (company required to have company secretary)**(1) Section 474(2)—****Repeal**

“With effect from the date of incorporation of a company”

Substitute

“For a company formed and registered under this Ordinance, with effect from the date of incorporation”.

(2) After section 474(2)—**Add**

“(2A) For a re-domiciled company, with effect from the re-domiciliation date, the first company secretary of the company is the person named in the re-domiciliation form delivered to the Registrar under section 820B(2) as the first company secretary of the company after it is registered under section 820C(1).”.

(3) Section 474(3)—**Repeal**

“If”

Substitute

“If, in relation to a company mentioned in subsection (2),”.

(4) After section 474(3)—**Add**

“(3A) If, in relation to a re-domiciled company, the name of a firm is specified in the re-domiciliation form under section 6(2)(c) of Schedule 6B, all partners of the firm as at the re-domiciliation date are the first joint company secretaries of the re-domiciled company.”.

38. Section 500 amended (company must not make loan etc. to director or body corporate controlled by director)**(1) Section 500(3)(a)—****Repeal**

“is incorporated outside Hong Kong; and”

Substitute

“—

- (i) is incorporated outside Hong Kong; and
- (ii) is not a re-domiciled company; and”.

(2) Section 500(3)(b)—

Repeal

“is incorporated in Hong Kong.”

Substitute

“—

- (i) is incorporated in Hong Kong; or
- (ii) is a re-domiciled company.”.

39. Section 501 amended (specified company must not make quasi-loan etc. to director)

- (1) Section 501(3)(a)—

Repeal

“is incorporated outside Hong Kong; and”

Substitute

“—

- (i) is incorporated outside Hong Kong; and
- (ii) is not a re-domiciled company; and”.

- (2) Section 501(3)(b)—

Repeal

“is incorporated in Hong Kong.”

Substitute

“—

- (i) is incorporated in Hong Kong; or
- (ii) is a re-domiciled company.”.

40. Section 502 amended (specified company must not make loan or quasi-loan etc. to connected entity)

- (1) Section 502(3)(a)—

Repeal

“is incorporated outside Hong Kong; and”

Substitute

“—

- (i) is incorporated outside Hong Kong; and
- (ii) is not a re-domiciled company; and”.

- (2) Section 502(3)(b)—

Repeal

“is incorporated in Hong Kong.”

Substitute

“—

- (i) is incorporated in Hong Kong; or
- (ii) is a re-domiciled company.”.

41. Section 503 amended (specified company must not enter into credit transaction etc. as creditor for director or connected entity)

- (1) Section 503(3)(a)—

Repeal

“is incorporated outside Hong Kong; and”

Substitute

“—

- (i) is incorporated outside Hong Kong; and
- (ii) is not a re-domiciled company; and”.

- (2) Section 503(3)(b)—

Repeal

“is incorporated in Hong Kong.”

Substitute

“—

- (i) is incorporated in Hong Kong; or
- (ii) is a re-domiciled company.”.

42. Section 504 amended (company must not take part in arrangement purporting to circumvent sections 500 to 503)

(1) Section 504(3)(a)—

Repeal

“is incorporated outside Hong Kong; and”

Substitute

“—

- (i) is incorporated outside Hong Kong; and
- (ii) is not a re-domiciled company; and”.

(2) Section 504(3)(b)—

Repeal

“is incorporated in Hong Kong.”

Substitute

“—

- (i) is incorporated in Hong Kong; or
- (ii) is a re-domiciled company.”.

43. Section 521 amended (company must not make payment for loss of office to director or former director)

(1) Section 521(3)(a)—

Repeal

“is incorporated outside Hong Kong; and”

Substitute

“—

- (i) is incorporated outside Hong Kong; and
- (ii) is not a re-domiciled company; and”.

(2) Section 521(3)(b)—

Repeal

“is incorporated in Hong Kong.”

Substitute

“—

- (i) is incorporated in Hong Kong; or
- (ii) is a re-domiciled company.”.

44. Section 522 amended (person must not make payment for loss of office to director or former director in connection with transfer of company’s undertaking or property)

Section 522(4)—

Repeal

everything after “if the subsidiary”

Substitute

“—

- (a) is incorporated outside Hong Kong and is not a re-domiciled company; or
- (b) is a wholly owned subsidiary of the company.”.

45. Section 523 amended (person must not make payment for loss of office to director or former director in connection with transfer of shares resulting from takeover offer)

Section 523(3)—

Repeal

“Hong Kong”

Substitute

“Hong Kong and is not a re-domiciled company”.

46. Section 610 amended (requirement to hold annual general meeting)

(1) Section 610(2)(a)(i)—

Repeal

“company’s incorporation”

Substitute

“specified event”.

(2) Section 610(2)(b)(i)—

Repeal

“company’s incorporation”

Substitute

“specified event”.

(3) After section 610(9)—

Add

“(10) In this section—

specified event (指明事件)—

(a) in relation to a company other than a re-domiciled company—means the incorporation of the company; and

(b) in relation to a re-domiciled company—means the registration of the company under section 820C(1).”.

47. Section 622 amended (registration of and requirements relating to certain resolutions, etc.)

(1) Section 622, Chinese text, heading—

Repeal

“註冊及”

Substitute

“登記或註冊，及”.

(2) Section 622(4) and (5), Chinese text, after “條例》”—

Add

“登記或”.

48. Section 645 amended (duty to notify Registrar of appointment and change)

Section 645(1)—

Repeal

“453(3) or (4) or section 454(2)”

Substitute

“453(3), (3A) or (4) or 454(2), (2A)”.

49. Section 652 amended (duty to notify Registrar of appointment and change)

Section 652(1)—

Repeal

“474(2) or (3)”

Substitute

“474(2), (2A), (3) or (3A)”.

50. Section 658 amended (registered office of company)

- (1) Section 658(2)—

Repeal

“The intended address of a company’s registered office”

Substitute

“For a company formed and registered under this Ordinance, the intended address of the registered office”.

- (2) After section 658(2)—

Add

“(2A) For a re-domiciled company, the intended address of the registered office stated in the re-domiciliation form registered under section 820C(5) is to be regarded as its registered office with effect from the re-domiciliation date until a notice of change in respect of the address is delivered to the Registrar under subsection (3).”.

51. Section 662 amended (requirement to deliver annual return)

- (1) Section 662(1)—

Repeal

“must”

Substitute

“that is not a re-domiciled company must,”.

- (2) Section 662(1), English text—

Repeal

“incorporation)”

Substitute

“incorporation),”.

- (3) After section 662(2)—

Add

“(2A) A private company that is a re-domiciled company must, in respect of every year (other than the year in which the certificate of re-domiciliation is issued), deliver to the Registrar for registration an annual return specified in subsection (5) within 42 days after the company’s return date.

(2B) For the purposes of subsection (2A), the company’s return date in respect of a particular year is the anniversary of the company’s re-domiciliation date in that particular year.”.

- (4) Section 662(6)—

Repeal

“(1) or (3)”

Substitute

“(1), (2A) or (3)”.

52. Section 744 amended (Registrar may send inquiry letter to company)

Section 744(2)—

Repeal paragraph (c)**Substitute**

“(c) if there is no officer of the company whose name and address are known to the Registrar—

- (i) for a company other than a re-domiciled company—to each founder member whose name and address are known to the Registrar; and
- (ii) for a re-domiciled company—to each member of the company whose name and address are known to the Registrar.”.

53. Section 745 amended (Registrar must follow up under certain circumstances)

Section 745(3)—

Repeal paragraph (c)**Substitute**

- “(c) if there is no officer of the company whose name and address are known to the Registrar—
- (i) for a company other than a re-domiciled company—to each founder member whose name and address are known to the Registrar; and
 - (ii) for a re-domiciled company—to each member of the company whose name and address are known to the Registrar.”.

54. Section 747 amended (Registrar’s duty to act in case of company being wound up)

Section 747(3)—

Repeal paragraph (c)**Substitute**

- “(c) if there is no officer of the company whose name and address are known to the Registrar—
- (i) for a company other than a re-domiciled company—to each founder member whose name and address are known to the Registrar; and
 - (ii) for a re-domiciled company—to each member of the company whose name and address are known to the Registrar.”.

55. Section 772 amended (Registrar may change company name in case of failure to comply with direction)

- (1) Section 772(1)(b), English text—

Repeal

“771(3)”

Substitute

“section 771(3)”.

- (2) Section 772(2)(a), after “certificate of incorporation”—

Add

“or the certificate of re-domiciliation”.

- (3) Section 772(2)(b), after “certificate of incorporation”—

Add

“or the certificate of re-domiciliation”.

- (4) Section 772(2)(c)(i), after “certificate of incorporation”—

Add

“or the certificate of re-domiciliation”.

- (5) Section 772(2)(c)(ii), after “certificate of incorporation”—

Add

“or the certificate of re-domiciliation”.

56. Section 774 amended (interpretation)

- (1) Section 774(1), Chinese text, definition of
- ~~本土名稱~~
-

Repeal

“於某地方成立為法團的非香港公司而言，指該公司在該”

Substitute

“某非香港公司而言，指該公司在它成立為法團所在”.

- (2) Section 774(1)—

Add in alphabetical order

“place of incorporation (成立為法團所在地方)—see subsections (1A) and (1B);”.

- (3) After section 774(1)—

Add

“(1A) Subject to subsection (1B), the jurisdiction outside Hong Kong in which a non-Hong Kong company is incorporated and under the law of which it is registered as a company is the place of incorporation of the non-Hong Kong company.

- (1B) If, at any time after the incorporation of a non-Hong Kong company, the non-Hong Kong company—

(a) has transferred its domicile to a jurisdiction outside Hong Kong; and

(b) is registered as a company under the law of that jurisdiction,

the jurisdiction under the law of which the non-Hong Kong company is currently so registered is the place of incorporation of the non-Hong Kong company.”.

57. Section 776 amended (certain non-Hong Kong companies must apply for registration)

- (1) Section 776(1)(a)—

Repeal

“and”.

- (2) Section 776(1)(b)(ii)—

Repeal the full stop**Substitute**

“; and”.

- (3) After section 776(1)(b)—

Add

“(c) a non-Hong Kong company whose registration is revoked under section 820F.”.

- (4) After section 776(3)—

Add

“(3A) A non-Hong Kong company falling within the description in subsection (1)(c) must, within one month after the revocation order made under section 820F takes effect, apply to the Registrar for registration as a registered non-Hong Kong company.”.

- (5) Section 776(4)—

Repeal

“(2) or (3)”

Substitute

“(2), (3) or (3A)”.

- (6) Section 776(5)—

Repeal

“(2) or (3)”

Substitute

“(2), (3) or (3A)”.

- (7) Section 776(6)—

Repeal

“(2) or (3)”

Substitute

“(2), (3) or (3A)”.

58. Section 778A added

After section 778—

Add

“778A. Supplementary provisions for section 778—where company incorporated outside Hong Kong ceases to be registered non-Hong Kong company because of registration under section 820C

(1) This section applies if—

- (a) a company incorporated outside Hong Kong becomes a re-domiciled company (*re-domiciliation*); and
- (b) immediately before the re-domiciliation, the company is required, but has yet, to comply with a requirement under section 778 (*requirement*) to deliver a return to the Registrar for registration.

(2) Despite the re-domiciliation—

- (a) the company is required to comply with the requirement in relation to the return; and
 - (b) section 778(10) applies to a non-compliance with the requirement by the company,
- as if the re-domiciliation had not taken place and the company were still a registered non-Hong Kong company.”.

59. Section 779 amended (registration of corporate name)

(1) Section 779(1)(b)—

Repeal

“must issue to the registered non-Hong Kong company”

Substitute

“(if the return is delivered to the Registrar under that section not because of section 778A) must issue to the company concerned”.

(2) Section 779(2)—

Repeal

everything after “name,”

Substitute

“the new domestic name to which the return relates.”.

(3) Section 779(3)—

Repeal paragraph (a)**Substitute**

“(a) the new domestic name to which the return relates; and”.

(4) Section 779(8)—

Repeal

“registered non-Hong Kong company”

Substitute

“company concerned”.

60. Section 787A added

Part 16, Division 5, after section 787—

Add

“787A. Supplementary provisions for section 787—where company incorporated outside Hong Kong ceases to be registered non-Hong Kong company because of registration under section 820C

(1) Subsections (2) and (3) apply if—

- (a) a company incorporated outside Hong Kong becomes a re-domiciled company (*re-domiciliation*);
 - (b) a notice of termination has been sent under section 787(1) or (2) in relation to the company before the re-domiciliation; and
 - (c) immediately before the re-domiciliation, the sender of the notice is required, but has yet, to comply with the requirement under section 787(3) (*requirement*).
- (2) Despite the re-domiciliation, the sender of the notice is required to comply with the requirement, as if the re-domiciliation had not taken place and the company were still a registered non-Hong Kong company.
- (3) If the sender is required to comply with the requirement because of subsection (2)—
- (a) section 787(7) does not apply; and
 - (b) the termination takes effect on the re-domiciliation date.
- (4) Subsection (5) applies in any other case where there is a re-domiciliation.
- (5) A person—
- (a) who was registered in the Companies Register before the re-domiciliation as an authorized representative of the company concerned; and
 - (b) who was an authorized representative of the company immediately before the re-domiciliation,
- is no longer such an authorized representative once the re-domiciliation takes place, and the authorization ceases to have effect on the re-domiciliation date.”.

61. Section 788A added

After section 788—

Add

“788A. Supplementary provisions for section 788—where company incorporated outside Hong Kong ceases to be registered non-Hong Kong company because of registration under section 820C

(1) This section applies if—

- (a) a company incorporated outside Hong Kong becomes a re-domiciled company (*re-domiciliation*); and
- (b) immediately before the re-domiciliation, the company is required, but has yet, to comply with the requirement under section 788(1) (*requirement*) in relation to an anniversary mentioned in that section.

(2) Despite the re-domiciliation—

- (a) the company is required to comply with the requirement in relation to the anniversary;
- (b) section 788(3) applies to the non-compliance with the requirement by the company;
- (c) section 788(4) applies to the conviction of an offence for the non-compliance with the requirement; and
- (d) section 788(5) applies to a failure to comply with an order made under section 788(4) (as applied by paragraph (c)),

as if the re-domiciliation had not taken place and the company were still a registered non-Hong Kong company.”.

62. Section 789 amended (company must deliver accounts for registration)

(1) Section 789(1), Chinese text—

Repeal

“於某地方成立為法團的”

Substitute

“某”.

(2) Section 789(1)(a), Chinese text—

Repeal

“受該”

Substitute

“受它成立為法團所在”.

(3) Section 789(1)(b), Chinese text—

Repeal

“地方的法律”

Substitute

“公司成立為法團所在地方的法律，”.

63. Section 789A added

After section 789—

Add

“789A. Supplementary provisions for section 789—where company incorporated outside Hong Kong ceases to be registered non-Hong Kong company because of registration under section 820C

(1) This section applies if—

(a) a company incorporated outside Hong Kong becomes a re-domiciled company (*re-domiciliation*);

(b) section 789(1) applied to the company before the re-domiciliation; and

(c) a return is required to be delivered for registration under section 788 because of section 788A.

(2) The company is required to comply with the requirement under section 789(2) (*requirement*) in relation to the return.

(3) If there is a non-compliance with the requirement by the company in relation to the return—

(a) section 789(3) applies to the non-compliance with the requirement;

(b) section 789(4) applies to the conviction of an offence for the non-compliance; and

(c) section 789(5) applies to a failure to comply with an order made under section 789(4) (as applied by paragraph (b)),

as if the re-domiciliation had not taken place and the company were still a registered non-Hong Kong company.”.

64. Section 790 amended (directors may revise accounts not complying with certain requirement)

(1) Section 790(1)—

Repeal

“registered non-Hong Kong company”

Substitute

“company”.

- (2) Section 790(2)(a) and (b)—

Repeal

“registered non-Hong Kong company”

Substitute

“company”.

- (3) Section 790(4)—

Repeal

“a registered non-Hong Kong company”

Substitute

“the company”.

- (4) Section 790(5)—

Repeal

“a registered non-Hong Kong company”

Substitute

“the company”.

65. Section 791 amended (company must deliver return for registration in case of change of certain particulars)

- (1) Section 791(2)(c)—

Repeal

“; or”

Substitute a semicolon.

- (2) Section 791(2)(d)—

Repeal the full stop**Substitute**

“; or”.

- (3) After section 791(2)(d)—

Add

“(e) the place of incorporation of the company.”.

- (4) Section 791(5), (6) and (7), after “liable”—

Add

“on conviction”.

- (5) After section 791(7)—

Add

“(8) If a registered non-Hong Kong company contravenes subsection (1) in respect of a change specified in subsection (2)(e), the company, every responsible person of the company, and every agent of the company who authorizes or permits the contravention, commit an offence, and each is liable on conviction to a fine at level 5 and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.”.

66. Section 791A added

Part 16, Division 6, after section 791—

Add

“791A. Supplementary provisions for section 791—where company incorporated outside Hong Kong ceases to be registered non-Hong Kong company because of registration under section 820C

- (1) This section applies if—

- (a) a company incorporated outside Hong Kong becomes a re-domiciled company (*re-domiciliation*); and

(b) immediately before the re-domiciliation, the company is required, but has yet, to comply with the requirement under section 791(1) (*requirement*) in relation to a change specified in section 791(2).

(2) Despite the re-domiciliation—

(a) the company is required to comply with the requirement in relation to the change; and

(b) section 791(5), (6) or (7) (as the case requires) applies to the non-compliance with the requirement, as if the re-domiciliation had not taken place and the company were still a registered non-Hong Kong company.”.

67. Section 804 amended (Financial Secretary may make regulations)

Section 804(2)(b)—

Repeal

“registered non-Hong Kong company”

Substitute

“company incorporated outside Hong Kong to which section 790 applies”.

68. Part 17A added

After Part 17—

Add

“Part 17A

Re-domiciled Companies

Division 1—Preliminary

820A. Interpretation

In this Part—

application date (申請日), in relation to a non-HK corporation, means the date on which the corporation makes an application under section 820B;

certificate of re-domiciliation (遷冊證明書) means a certificate issued under section 820C(5)(c);

information (資料) includes particulars;

intended RC (籌劃中公司), in relation to an application made under section 820B by a non-HK corporation, means the company that the corporation is intended to become by registering under section 820C(1);

non-HK corporation (非香港法團) means a body corporate that is a company incorporated outside Hong Kong;

place of incorporation (成立地), in relation to a body corporate, means—

- (a) the jurisdiction outside Hong Kong in which the body corporate is incorporated and under the law of which it is registered as at the application date; or
- (b) if the body corporate has, after its incorporation, transferred its domicile to a jurisdiction outside Hong Kong, and is registered as a company under the law of that jurisdiction as at the application date—that jurisdiction;

re-domiciliation date (遷冊日), in relation to a body corporate, means the date on which a certificate of re-domiciliation is issued to the body corporate;

re-domiciliation form (遷冊表格), in relation to a body corporate, means the re-domiciliation form delivered by the corporation to the Registrar under section 820B(2)(a).

Division 2—Registration

820B. Application requirements

- (1) A non-HK corporation may apply to the Registrar for registration under section 820C(1) as—
 - (a) a public company limited by shares;
 - (b) a private company limited by shares;
 - (c) a public unlimited company with a share capital; or
 - (d) a private unlimited company with a share capital.
- (2) The application must be made by the non-HK corporation (**applicant**) by delivering to the Registrar—
 - (a) a re-domiciliation form in the specified form; and
 - (b) a copy of the proposed articles.
- (3) The re-domiciliation form delivered to the Registrar under subsection (2)(a)—
 - (a) must contain—
 - (i) the information and statements specified in Schedule 6A; and
 - (ii) a statement of compliance certifying—
 - (A) that all of the requirements in this section and Schedules 6A, 6B and 6C that are applicable to the application for registration of the applicant (**applicable**

requirements) have been complied with; and

- (B) that the information and statements contained in the form are accurate and consistent with those in the proposed articles;
- (b) must be signed by one of the directors of the applicant; and
- (c) must be accompanied by the documents specified in Schedule 6C.
- (4) The Registrar may accept a statement of compliance as sufficient evidence that all of the applicable requirements have been complied with.
- (5) In this section—

proposed articles (擬用章程細則) means the articles of association that the members of the applicant have resolved to be adopted as the articles of association of the intended RC with effect from the date on which it is registered under section 820C(1).

820C. Consideration of application and registration by Registrar

- (1) On an application made under section 820B by a non-HK corporation (**applicant**), and on payment of the fee prescribed for the registration, the Registrar may register the applicant as—
 - (a) a public company limited by shares;
 - (b) a private company limited by shares;
 - (c) a public unlimited company with a share capital; or
 - (d) a private unlimited company with a share capital.

- (2) The Registrar must refuse to register an applicant under subsection (1) if any of the requirements mentioned in section 820B that are applicable to the application is not complied with.
- (3) The Registrar may refuse to register an applicant under subsection (1) if the Registrar is of the opinion that the intended RC is likely to be used for an unlawful purpose or for a purpose contrary to public interest.
- (4) The Registrar may require an applicant to provide any further documents or information that is, in the Registrar's opinion, necessary for considering the application made under section 820B.
- (5) On registering an applicant under subsection (1), the Registrar must also—
 - (a) register the re-domiciliation form;
 - (b) register the document delivered to the Registrar by the applicant under section 820B(2)(b); and
 - (c) issue a certificate to the applicant certifying that the applicant is registered under subsection (1) as a limited company or an unlimited company (as the case requires).
- (6) A registration under subsection (1) begins to have effect on the date of issue of the certificate of re-domiciliation.
- (7) On the date on which a certificate of re-domiciliation is issued to a body corporate registered as a company under subsection (1), the articles contained in the document registered under subsection (5)(b) becomes the articles of association of the registered company.
- (8) A certificate of re-domiciliation is conclusive evidence that the body corporate to which the certificate is issued is registered under subsection (1).

820D. Effect of registration under section 820C

- (1) The fact that a body corporate is registered under section 820C(1)—
 - (a) does not have the effect of creating a new legal entity;
 - (b) does not affect—
 - (i) the identity or continuity of the body corporate as a body corporate registered in its place of incorporation;
 - (ii) any contract made, resolution passed or other thing done by or in relation to the body corporate; and
 - (iii) any function, property, right, privilege, obligation or liability acquired, accrued or incurred by or to the body corporate; and
 - (c) does not render defective any legal proceedings commenced or continued by or against the body corporate.
- (2) To avoid doubt, on or after the re-domiciliation date, any legal proceedings that could have been commenced by or against the body corporate may be commenced or continued by or against the re-domiciled company.
- (3) To avoid doubt, with effect from the re-domiciliation date, all property of the body corporate is the property of the re-domiciled company.
- (4) For tax purposes, this section does not have the effect of transferring any assets of the body corporate or changing the beneficial ownership of any of those assets.
- (5) For a body corporate that was a registered non-Hong Kong company immediately before the re-domiciliation

date, its registration under Part 16 ceases to have effect on that date.

820E. Deregistration in place of incorporation

- (1) This section applies to a body corporate to which a certificate of re-domiciliation is issued under section 820C(5)(c).
- (2) As soon as practicable after the re-domiciliation date, the body corporate must take all reasonable steps to procure its deregistration in its place of incorporation.
- (3) Within 120 days after the re-domiciliation date (*specified period*), the body corporate—
 - (a) must be deregistered in its place of incorporation; and
 - (b) must submit to the Registrar a document evidencing the deregistration to the satisfaction of the Registrar.
- (4) If the document mentioned in subsection (3)(b) is in a language other than the English language and the Chinese language, the document must be accompanied by a certified translation of the document in the English language or the Chinese language.
- (5) On an application made by the body corporate, the Registrar may extend the specified period subject to any conditions the Registrar considers appropriate.
- (6) In this section—
deregister (撤銷註冊), in relation to a body corporate, means to cease to have a registration under the law of its place of incorporation relating to the incorporation or domicile of the body corporate in that place.

820F. Revocation of registration under this Ordinance

- (1) This section applies if the Registrar is satisfied that there is sufficient evidence to show that a re-domiciled company—
 - (a) has failed to comply with section 820E(2); or
 - (b) has failed to comply with section 820E(3)(a) or (b) or (4) within the period specified in section 820E(3) or, if the specified period is extended under section 820E(5), the extended period.
- (2) Subject to subsections (3) and (5), after the expiry of the period specified under subsection (4), the Registrar may by order revoke the registration of the re-domiciled company under this Ordinance.
- (3) If the Registrar intends to make an order under subsection (2) (*revocation order*) in relation to a re-domiciled company, the Registrar must give the company a written notice informing the company of the Registrar's intention to revoke the registration.
- (4) The notice must specify a period of not less than 30 days within which the company may make any written representation to the Registrar.
- (5) If the Registrar receives, within the period specified under subsection (4), any representation made by the company, the Registrar must consider the representation.
- (6) If a revocation order is made under this section, the Registrar must, as soon as practicable after the order is made—
 - (a) cause a copy of the revocation order to be published in the Gazette; and
 - (b) cause a copy of the order to be served on the body corporate concerned.

- (7) The revocation order takes effect on the date on which a copy of it is published under subsection (6)(a).
- (8) A decision of the Registrar under this section to revoke the registration of a re-domiciled company under this Ordinance is final.
- (9) The fact that the registration of a body corporate is revoked under this section does not affect any liability of an officer or a member of the body corporate and any such liability may be enforced as if the registration had not been revoked.

Division 3—Miscellaneous or Related Matters

820G. Delivery of director's written consent

- (1) A consent given for the purposes of section 4(1)(b)(ii) of Schedule 6B in relation to an application made under section 820B by a body corporate must be delivered in the specified form to the Registrar for registration within 15 days after the re-domiciliation date.
- (2) If subsection (1) is contravened, the re-domiciled company concerned, and every specified person, commit an offence and each is liable on conviction 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.
- (3) In any proceedings against a director of the re-domiciled company under this section, it is a defence to establish that the director took all reasonable steps to secure compliance with subsection (1).
- (4) In this section—
specified person (指明人士), in relation to a re-domiciled company, means—

- (a) every director of the re-domiciled company who has signed the re-domiciliation form; or
- (b) every other person who is a responsible person of the company.

820H. Reporting duty of re-domiciled companies after registration under section 820C

- (1) This section applies to a body corporate that is registered under section 820C(1)(a), (b), (c) or (d).
- (2) Within 15 days after the re-domiciliation date, the re-domiciled company concerned must deliver to the Registrar for registration a return that complies with subsection (3).
- (3) A return—
 - (a) must be in the specified form;
 - (b) must include a statement of share capital, as at the re-domiciliation date, that complies with section 201; and
 - (c) must state the following particulars relating to the members of the re-domiciled company—
 - (i) if the company is not a listed company—
 - (A) the number of issued shares held by each member of the company in relation to each class of shares as at the re-domiciliation date;
 - (B) the name and address of each member; and
 - (ii) if the company is a listed company—
 - (A) the number of issued shares held by each specified member of the company in

- relation to each class of shares as at the re-domiciliation date;
- (B) the percentage of issued shares held by each specified member of the company in relation to each class of shares as at that date;
- (C) the name and address of each specified member of the company.
- (4) In subsection (3)(c)(ii), a reference to a specified member of a re-domiciled company is, in relation to a class of shares, a reference to a member of the company who holds at least 5% of the issued shares in that class.
- (5) If a re-domiciled company contravenes subsection (2), the company, and every responsible person of the company, commit an offence, and each is liable on conviction 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.
- (6) If a re-domiciled company fails to deliver a return that complies with subsection (3) within 15 days after the re-domiciliation date (*failure*), the Court may, on application of the company or a responsible person of the company, extend the period for delivery of the return by a period determined by the Court.
- (7) The Court may not extend a period under subsection (6) unless it is satisfied that—
- (a) the failure was accidental or due to inadvertence; or
- (b) it is just and equitable to extend the period.
- (8) If the Court extends the period for delivery of a return—

- (a) any liability already incurred by the company or a responsible person of the company for an offence under subsection (5) is extinguished; and
- (b) subsection (2) has effect as if the reference to 15 days were a reference to the extended period.”.

69. Section 841 amended (appointment of inspector on Court’s or Financial Secretary’s initiative)

- (1) After section 841(2)(a)—

Add

“(ab) the company’s registration under section 820C(1) was sought or obtained for a fraudulent or unlawful purpose;”.

- (2) Section 841(2)(b)(i), Chinese text—

Repeal

“該”

Substitute

“某”.

- (3) Section 841(2)(b)(ii), Chinese text—

Repeal

“欺詐該”

Substitute

“欺詐某”.

- (4) Section 841(2)(b)(iii)—

Repeal

“; or”

Substitute a semicolon.

- (5) Section 841(2)—

Repeal paragraph (c)

Substitute

- “(c) the persons concerned with the formation of the company have, in relation to the formation, engaged in fraud, misfeasance or other misconduct towards it, its members or its creditors;
- (d) (if the company is a re-domiciled company) the persons involved in seeking or obtaining the registration under section 820C(1) for the company have, in relation to the registration, engaged in fraud, misfeasance or other misconduct towards it, its members or its creditors; or
- (e) the persons concerned with the management of the company’s affair have, in relation to the management, engaged in fraud, misfeasance or other misconduct towards it, its members or its creditors.”.

70. Section 905 amended (costs in action by company etc.)Section 905(3), definition of *company*—**Repeal paragraph (b)****Substitute**

- “(b) a company incorporated outside Hong Kong that is not a re-domiciled company.”.

71. Section 911 amended (Financial Secretary and Registrar may amend Schedules)

Section 911(1)—

Repeal

“5C or 7”

Substitute

“5C, 6A, 6B, 6C or 7”.

72. Schedule 2 amended (content of incorporation form)

Schedule 2—

Repeal

“& 911]”

Substitute

“, 474 & 911]”.

73. Schedule 3 amended (specified qualifying conditions for sections 361 to 366A)Schedule 3, section 1A, definition of *non-Hong Kong body corporate*—**Repeal**

“means a body corporate incorporated outside Hong Kong.”

Substitute

“—

- (a) means a body corporate incorporated outside Hong Kong; but
- (b) does not include a re-domiciled company.”.

74. Schedule 5B amended (required particulars of significant controllers)

- (1) Schedule 5B, section 4(2)(b), after “a company”—

Add

“as defined by section 2(1) but is not a re-domiciled company”.

- (2) Schedule 5B, after section 4(2)(b)—

Add

“(ba) if the entity is a re-domiciled company—

- (i) the company's registration number as stated in its certificate of re-domiciliation; and
 - (ii) the address of its registered office;".
- (3) Schedule 5B, section 4(2)—

Repeal paragraph (c)**Substitute**

- "(c) if the entity is not a company as defined by section 2(1)—
- (i) if the entity has not transferred its domicile to any other jurisdiction after its incorporation or formation—
 - (A) the entity's registration number (or the equivalent) as stated in its certificate of incorporation or formation (or the equivalent); and
 - (B) the address of its registered or principal office; and
 - (ii) if the entity has transferred its domicile to any other jurisdiction after its incorporation or formation—
 - (A) the entity's registration number (or the equivalent) as stated in the certificate of registration (or the equivalent) issued in the latest domicile certifying that the entity is registered under the law of its latest place of domicile; and
 - (B) the address of its registered or principal office;".

75. **Schedule 6 amended (information to be contained in annual return and documents by which annual return must be accompanied)**

Schedule 6, section 6(a)—

Repeal subparagraph (ii)**Substitute**

- "(ii) in the case of a first return—
- (A) if the company is not a re-domiciled company—since the date of the incorporation of the company; and
 - (B) if the company is a re-domiciled company—since the re-domiciliation date;".

76. **Schedules 6A, 6B and 6C added**

After Schedule 6—

Add**"Schedule 6A**

[ss. 820B & 911 & Schs.
6B & 6C]

Information and Statements to be Contained in Re-domiciliation Form

Part 1

Preliminary

1. Interpretation

In this Schedule—

applicant (申請人), in relation to an application made under section 820B, means the non-HK corporation that makes the application;

application date (申請日), in relation to an application made under section 820B, means the date on which the applicant makes the application;

constitutional document (章程文件), in relation to a body corporate, means—

- (a) the charter, statutes or memorandum (including the articles of association) of the body corporate; or
- (b) any other instrument defining the corporate's constitution;

information (資料) has the meaning given by section 820A;

non-HK corporation (非香港法團) has the meaning given by section 820A;

place of incorporation (成立地) has the meaning given by section 820A.

Part 2

Information and Statements to be Contained in Re-domiciliation Form

2. Re-domiciliation form to contain certain information and statements

The re-domiciliation form to be delivered to the Registrar under section 820B(2) must contain the following in relation to the applicant—

- (a) the name of the applicant;
- (b) the place of incorporation of the applicant;
- (c) information as to whether the applicant is a non-Hong Kong company registered under Part 16;
- (d) if the applicant is a non-Hong Kong company registered under Part 16—the applicant's business registration number;
- (e) information as to whether the applicant is a listed company;
- (f) the information specified in section 3 of this Schedule; and
- (g) the statements specified in section 4 of this Schedule.

3. Supplementary provisions for section 2(f) of this Schedule

- (1) The information referred to in section 2(f) of this Schedule is as follows—
 - (a) the total number of shares issued by the applicant (*issued shares*) as at the latest practicable date before the application date;

- (b) the total amount of the issued share capital of the applicant as at the reference date;
- (c) the amount paid up or regarded as paid up on the total number of issued shares as at the reference date;
- (d) the amount remaining unpaid or regarded as remaining unpaid on the total number of issued shares as at the reference date;
- (e) if, in respect of the issued share capital of the applicant, there are different classes of shares as at the reference date—
 - (i) a description of each of those classes (*each class*);
 - (ii) the total number of issued shares in each class as at the reference date;
 - (iii) the total amount of the issued share capital in respect of each class as at the reference date;
 - (iv) the amount paid up or regarded as paid up on the total number of issued shares in each class as at the reference date;
 - (v) the amount remaining unpaid or regarded as remaining unpaid on the total number of issued shares in each class as at the reference date;
 - (vi) the particulars of any voting rights attached to the shares in each class, including rights that arise only in certain circumstances;
 - (vii) the particulars of any rights attached to the shares in each class, as respects dividends, to participate in a distribution;

- (viii) the particulars of any rights attached to the shares in each class, as respects capital, to participate in a distribution (including on a winding up); and
 - (ix) information as to whether or not the shares in each class are redeeming shares;
 - (f) subject to subsections (2), (3) and (4), the number of shares that the applicant has issued, as at the reference date, to each member; and
 - (g) subject to subsections (2), (3) and (4), the amount of the issued share capital held by each member as at the reference date.
- (2) If the applicant—
- (a) is not a listed company; and
 - (b) as at the reference date, has issued more than one class of shares to a member,
- the information required under subsection (1)(f) and (g) must be stated in respect of each class of shares issued to the member.
- (3) If the applicant is a listed company and, as at the reference date, has not issued more than one class of shares to any of its member—
- (a) the information required under subsection (1)(f) is the number of shares that the applicant has issued, as at the reference date, to each member who holds at least 5% of the issued shares as at that date; and
 - (b) the information required under subsection (1)(g) is the amount of the issued share capital that is held, as at the reference date, by each member who holds at least 5% of the issued shares as at that date.

- (4) If the applicant is a listed company and, as at the reference date, has issued more than one class of shares to any of its members—
- (a) the information required under subsection (1)(f) is the number of shares in each class that the applicant has issued, as at the reference date, to each member who holds at least 5% of the issued shares in that class as at that date; and
 - (b) the information required under subsection (1)(g) is the amount of the issued share capital in respect of each class that is held, as at the reference date, by each member who holds at least 5% of the issued shares in that class as at that date.

- (5) For the purposes of subsection (1)(a), the latest practicable date referred to in that subsection must be a date not earlier than 15 days before the application date.

- (6) In this section—

latest practicable date (在切實可行的範圍內屬最近期的某日)—see subsection (5);

member (成員) means a member of the applicant;

reference date (參考日) means the date as at which the total number of issued shares is to be stated in the re-domiciliation form because of subsection (1)(a).

4. Supplementary provisions for section 2(g) of this Schedule

- (1) The statements referred to in section 2(g) of this Schedule are—
- (a) a statement confirming that the applicant is, under the law of its place of incorporation, of a type that is the same or substantially the same as the intended type;

- (b) if the liability of the members of the applicant (**members**) is limited—a statement confirming that the way in which and the extent to which the liability is limited is defined in the constitutional document of the applicant;
- (c) a statement confirming that—
 - (i) there is, under the law of the applicant's place of incorporation, a regime that allows the applicant to deregister in the place of incorporation for the purpose of its registration in another jurisdiction as a company (**deregistration**); and
 - (ii) neither the law of the place of incorporation nor the constitutional document of the applicant prohibits the applicant to become a re-domiciled company (**re-domiciliation**);
- (d) if, under the law of the place of incorporation or the constitutional document of the applicant, the applicant is required to obtain permission (however described) for the re-domiciliation—a statement confirming that the permission has been obtained;
- (e) if, under the law of the place of incorporation or the constitutional document of the applicant, the applicant is required to obtain consent from its members for the re-domiciliation (**relevant requirement**)—a statement confirming that the relevant requirement has been complied with;
- (f) if there is no relevant requirement—a statement confirming that a resolution has been duly passed for the re-domiciliation by at least 75% of the eligible members; and

- (g) a statement confirming that, if the applicant becomes a re-domiciled company, the applicant will, as soon as practicable after the re-domiciliation date, take all reasonable steps to procure the deregistration.
- (2) In this section—
- deregister* (撤銷註冊) has the meaning given by section 820E(6);
- eligible member* (合資格成員), in relation to the re-domiciliation, means a member who, under the law of the place of incorporation and the constitutional document of the applicant, is entitled to vote on a resolution for the re-domiciliation;
- intended type* (擬註冊類別) means the type of company that is specified in section 820C(1)(a), (b), (c) or (d) and that the applicant has indicated in the re-domiciliation form that the applicant intends to be registered as under section 820C(1).

Part 3

Information and Statements to be Contained in Re-domiciliation Form in relation to Intended RC

5. Re-domiciliation form to contain certain information and statements in relation to intended RC

- (1) The re-domiciliation form to be delivered to the Registrar under section 820B(2) must contain the following in relation to the intended RC—
- (a) the name of the intended RC;

- (b) the address that is proposed to be the registered office of the intended RC;
- (c) a statement that states the intention of the applicant to become a re-domiciled company and its intention to be registered as—
- (i) a public company limited by shares;
 - (ii) a private company limited by shares;
 - (iii) a public unlimited company with a share capital; or
 - (iv) a private unlimited company with a share capital;
- (d) for each person who is to be a director of the intended RC if it is registered under section 820C(1)—the particulars and statement specified in sections 3 and 4 of Schedule 6B;
- (e) for each person who, as at the application date, is a director of the applicant and who, if the intended RC is registered, would not be a director of the re-domiciled company because of the registration—the particulars specified in section 5 of Schedule 6B;
- (f) for each person who is to be the company secretary or one of the joint company secretaries of the intended RC if it is registered under section 820C(1)—the particulars specified in section 6 of Schedule 6B;
- (g) for each person who, as at the application date, is a company secretary or one of the joint company secretaries of the applicant and who, if the intended RC is registered, would not be a company secretary, or one of the joint company secretaries, (as the case requires) of the re-domiciled company because of

- the registration—the particulars specified in section 7 of Schedule 6B; and
- (h) a statement—
- (i) confirming that—
- (A) the proposed articles contained in the copy delivered under section 820B(2)(b) have been signed by each person who is to be a member of the intended RC on its registration; and
- (B) members of the applicant have resolved under the constitutional document that the proposed articles should be adopted; or
- (ii) confirming that—
- (A) the proposed articles contained in the copy delivered under section 820B(2)(b) have been signed by each person who is to be a director of the intended RC on its registration; and
- (B) members of the applicant have resolved under the constitutional document that the proposed articles should be adopted.
- (2) In this section—
- proposed articles** (擬用章程細則) has the meaning given by section 820B(5).

Schedule 6B

[ss. 474, 820B, 820G &
911 & Sch. 6A]

Directors and Company Secretary of Re-domiciled Company

Part 1

Preliminary

1. Interpretation

(1) In this Schedule—

applicant (申請人), in relation to an application made under section 820B, means the non-HK corporation that makes the application;

application date (申請日), in relation to an application made under section 820B, means the date on which the applicant makes the application;

forename (名字) includes a Christian or given name;

non-HK corporation (非香港法團) has the meaning given by section 820A;

surname (姓氏), for a person usually known by a title different from the person's surname, means that title.

(2) In this Schedule, a reference to a former forename or surname does not include—

(a) in relation to a person—

- (i) a forename or surname that was changed or ceased to be used before the person attained the age of 18 years; and
- (ii) a forename or surname that has been changed or ceased to be used for a period of at least 20 years;
- (b) in relation to a person usually known by a title different from the person's surname, the name by which the person was known before the adoption of or succession to the title; and
- (c) in relation to a married woman, a name or surname by which the woman was known before the woman's marriage.

Part 2

Directors of Re-domiciled Company

2. Application of sections 3 and 4 of this Schedule

Sections 3 and 4 of this Schedule apply for the purposes of section 5(1)(d) of Schedule 6A.

3. Particulars of person to be director of intended RC on registration

- (1) The particulars required to be contained in the re-domiciliation form in respect of each person who is to be a director of the intended RC on its registration are—
 - (a) if the person is a natural person—
 - (i) the present forename and surname, former forename or surname (if any), and aliases (if any);

- (ii) the usual residential address;
- (iii) the correspondence address;
- (iv) the number of the identity card or, if the person does not have an identity card, the number and issuing country of any passport held by the person; and
- (v) if, as at the application date, the person is a director of the applicant—the date of appointment of the person as the director; and
- (b) if the person is a body corporate—
 - (i) the name of the body corporate;
 - (ii) the address of its registered or principal office; and
 - (iii) if, as at the application date, the person is a director of the applicant—the date of appointment of the person as the director.
- (2) For the purposes of subsection (1)(a)(iii), a correspondence address must not be a post office box number.
- (3) In this section—

residential address (住址)—

 - (a) does not include an address at a hotel unless the person to whom it relates is stated, for the purposes of this Schedule, to have no other permanent address; and
 - (b) does not include a post office box number.

4. Statement relating to person to be director of intended RC on registration

- (1) The statement required to be contained in the re-domiciliation form in respect of each person who is to be a director of the intended RC on its registration is—
 - (a) if the person is the signatory to the re-domiciliation form, a statement by the person—
 - (i) that the person has consented to be a director of the intended RC on its registration; and
 - (ii) (if the person is a natural person) that the person has attained the age of 18 years; and
 - (b) if the person is not the signatory to the re-domiciliation form—
 - (i) a statement by the person—
 - (A) that the person has consented to be a director of the intended RC on its registration; and
 - (B) (if the person is a natural person) that the person has attained the age of 18 years; or
 - (ii) a statement by the signatory—
 - (A) that the person has consented to be a director of the intended RC on its registration; and
 - (B) (if the person is a natural person) that the person has attained the age of 18 years.

- (2) In this section—

signatory (簽署人), in relation to an application made under section 820B, means the person who signs the re-

domiciliation form under section 820B(3)(b) for the application.

5. Particulars of person who would not be director of intended RC on registration

- (1) This section applies for the purposes of section 5(1)(e) of Schedule 6A.
- (2) The particulars required to be contained in the re-domiciliation form in respect of each person to which section 5(1)(e) of Schedule 6A applies are—
 - (a) if the person is a natural person—
 - (i) the present forename and surname, former forename or surname (if any), and aliases (if any); and
 - (ii) the number of the identity card or, if the person does not have an identity card, the number and issuing country of any passport held by the person; and
 - (b) if the person is a body corporate—the name of the body corporate.
- (3) For the purposes of subsection (2)(a)(ii), the number of the identity card or passport is not required to be a full number.

Part 3**Company Secretary of Re-domiciled Company****6. Particulars of person to be company secretary of intended RC on registration**

- (1) This section applies for the purposes of section 5(1)(f) of Schedule 6A.
- (2) The particulars required to be contained in the re-domiciliation form in respect of each person who is to be the company secretary, or one of the joint company secretaries, of the intended RC on its registration are—
 - (a) if the person is a natural person and is not a person covered by paragraph (c)—
 - (i) the present forename and surname, former forename or surname (if any), and aliases (if any);
 - (ii) the correspondence address;
 - (iii) the number of the identity card or, if the person does not have an identity card, the number and issuing country of any passport held by the person; and
 - (iv) if, as at the application date, the person is a company secretary or one of the joint company secretaries of the applicant (*specified secretary*)—the date on which the person becomes the specified secretary;
 - (b) if the person is a body corporate and is not a person covered by paragraph (c)—
 - (i) the name of the body corporate;

- (ii) the address of its registered or principal office; and
 - (iii) if the person is a specified secretary on the application date—the date on which the person becomes the specified secretary; and
 - (c) if the person is a partner of a firm each partner of which is to be one of the joint company secretaries of the intended RC on its registration—
 - (i) the firm's name;
 - (ii) the address of the firm's principal office; and
 - (iii) if, as at the application date, the person is one of the joint company secretaries of the applicant—the date on which the person becomes one of the joint company secretaries of the applicant.
 - (3) For the purposes of subsection (2)(a)(ii)—
 - (a) a correspondence address must be a place in Hong Kong; and
 - (b) must not be a post office box number.
- 7. Particulars of person who would not be company secretary or one of the joint company secretaries of intended RC on registration**
- (1) This section applies for the purposes of section 5(1)(g) of Schedule 6A.
 - (2) The particulars required to be contained in the re-domiciliation form in respect of each person to which section 5(1)(g) of Schedule 6A applies are—
 - (a) if the person is a natural person—

- (i) the present forename and surname, former forename or surname (if any), and aliases (if any); and
- (ii) the number of the identity card or, if the person does not have an identity card, the number and issuing country of any passport held by the person;
- (b) if the person is a body corporate—the name of the body corporate; and
- (c) if the person is a partner of a firm each partner of which is one of the joint company secretaries of the applicant—the name of the firm.
- (3) For the purposes of subsection (2)(a)(ii), the number of the identity card or passport is not required to be a full number.

Schedule 6C

[ss. 820B & 911]

Documents to Accompany Re-domiciliation Form

1. Interpretation

- (1) In this Schedule—
applicant (申請人), in relation to an application made under section 820B, means the non-HK corporation that makes the application;

- application date* (申請日), in relation to an application made under section 820B, means the date on which the applicant makes the application;
- certified copy* (經核證副本)—see subsection (3);
- constitutional document* (章程文件) has the meaning given by section 1 of Schedule 6A;
- deregister* (撤銷註冊) has the meaning given by section 820E(6);
- eligible member* (合資格成員) has the meaning given by section 4(2) of Schedule 6A;
- latest practicable date* (在切實可行的範圍內屬最近期的某日)—see subsection (2);
- non-HK corporation* (非香港法團) has the meaning given by section 820A;
- place of incorporation* (成立地) has the meaning given by section 820A;
- proposed articles* (擬用章程細則) has the meaning given by section 820B(5).
- (2) For the purposes of section 2(1)(e) of this Schedule, the latest practicable date referred to in that section must be a date not earlier than 12 months before the application date.
- (3) For the purposes of this Schedule, a copy of a document is a certified copy if it is certified as a true copy of the document by a person specified in subsection (4).
- (4) The person is—
 - (a) if the copy is certified in the place of incorporation of the applicant that makes the application under section 820B—

- (i) an official of the government of that place to whose custody of the document is committed;
- (ii) a notary public practising in that place;
- (iii) a lawyer practising in that place;
- (iv) a professional accountant practising in that place;
- (v) an officer of a court of law duly authorized by the law of that place to certify documents for any judicial or other legal purpose; or
- (vi) a professional company secretary practising in that place;
- (b) if the copy is certified in Hong Kong—
 - (i) a notary public practising in Hong Kong;
 - (ii) a solicitor practising in Hong Kong;
 - (iii) a certified public accountant (practising);
 - (iv) an officer of the court in Hong Kong who is authorized by law to certify documents for any judicial or other legal purpose;
 - (v) a consular officer of the place of incorporation of the applicant; or
 - (vi) a professional company secretary practising in Hong Kong; or
- (c) an officer of the applicant.

2. Re-domiciliation form to be accompanied by certain documents

- (1) A re-domiciliation form delivered by an applicant to the Registrar under section 820B(2) must be accompanied by the following documents—

- (a) if the place of incorporation of the applicant is the place in which the applicant is incorporated—
 - (i) a certified copy of the certificate of incorporation of the applicant, or a certified copy of any equivalent document, issued under the law of that place; and
 - (ii) a certified copy of each constitutional document of the applicant;
- (b) if the place of incorporation of the applicant is any other place (*particular place*)—
 - (i) a certified copy of the certificate of incorporation of the applicant, or a certified copy of any equivalent document, issued under the law of the place in which the applicant is incorporated;
 - (ii) a certified copy of the certificate of registration of the applicant as a company, or a certified copy of any equivalent document, issued under the law of the particular place; and
 - (iii) a certified copy of each constitutional document of the applicant;
- (c) a certificate specified in subsection (2);
- (d) if neither the law of the place of incorporation nor the constitutional document of the applicant requires consent from members of the applicant for the applicant to become a re-domiciled company (*re-domiciliation*)—a certified copy of the resolution referred to in section 4(1)(f) of Schedule 6A;
- (e) the accounts of the applicant as at the latest practicable date before the application date or (if under the law of the place of incorporation of the

- applicant, or the rules of any stock exchange or similar regulatory bodies in that place, the applicant is also required to prepare audited accounts) the audited accounts of the applicant as at the latest practicable date before the application date;
- (f) a legal opinion of a legal practitioner who practises the law of the place of incorporation of the applicant—
- (i) that the applicant is duly registered and validly subsisting in the place of incorporation;
 - (ii) that the applicant is an entity the type of which is the same or substantially the same as that of the intended RC;
 - (iii) that each of the persons specified in the re-domiciliation form to be a director of the intended RC is not disqualified from being appointed as a director, under the law of the place of incorporation;
 - (iv) if the proposed name of the intended RC is different from the name of the applicant—
 - (A) that the proposed name has been duly approved by the members of the applicant to be adopted as the name of the intended RC; and
 - (B) that the change of the name of the applicant to the proposed name would not affect its deregistration in the place of incorporation (*deregistration*);
 - (v) that—
 - (A) there is, under the law of the place of incorporation, a regime that allows the

- deregistration of the applicant for the purpose of its registration in another jurisdiction as a company; and
- (B) neither the law of the place of incorporation nor the constitutional document of the applicant prohibits the re-domiciliation;
- (vi) if, under the law of the place of incorporation or the constitutional document of the applicant, the applicant is required to obtain permission (however described) for the re-domiciliation—that the permission has been duly obtained;
 - (vii) if, under the law of the place of incorporation or the constitutional document of the applicant, the applicant is required to obtain consent from its members for the re-domiciliation (*relevant requirement*)—that the relevant requirement has been complied with;
 - (viii) if there is no relevant requirement—that a resolution has been duly passed for the re-domiciliation by at least 75% of the eligible members;
 - (ix) that there is no petition or similar proceedings in the place of incorporation to wind up or liquidate the applicant that is pending;
 - (x) that there is no order to wind up or liquidate the applicant in the place of incorporation;
 - (xi) that no person is appointed or acting in the place of incorporation as a receiver or liquidator (however described) with respect to the applicant or any property of the applicant;

- (xii) that the applicant is not operating or carrying on business under any scheme, order, compromise or other similar arrangement, relating to the insolvency of the applicant that is entered into or made by the applicant in its place of incorporation with any other person;
 - (xiii) that the deregistration of the applicant for the purpose of the re-domiciliation is allowed under the law of the place of incorporation; and
 - (xiv) that the proposed articles have been approved by the members of the applicant and resolved by them to be adopted with effect from the re-domiciliation date;
 - (g) every other document that the Registrar required for determining the application; and
 - (h) if a document mentioned in paragraph (a), (b), (c), (d), (e), (f) or (g) is in a language other than the English language and the Chinese language—a certified translation of the document in the English language or the Chinese language.
- (2) The certificate referred to in subsection (1)(c) is a certificate, signed and issued in compliance with the requirement in subsection (3), to the effect that—
- (a) the applicant has only one place of incorporation, being the one specified in the certificate of incorporation (or the equivalent) or the certificate of registration (or the equivalent) under subsection (1)(b);
 - (b) the applicant—

- (i) if the place of incorporation is the place in which the applicant is incorporated—has a registration relating to its incorporation under the law of that place; and
- (ii) if the place of incorporation is not the place in which the applicant is incorporated—is registered as a company under the law of the place of incorporation;
- (c) the applicant has not been notified of any petition or similar proceedings to wind up or liquidate the applicant that is pending in any place;
- (d) the applicant has not been notified of any order to wind up or liquidate the applicant in any other place;
- (e) no resolution has been passed in any place to wind up or liquidate the applicant;
- (f) the applicant has not been notified of the appointment of any receiver or liquidator (however described) with respect to the applicant or any property of the applicant (*specified person*) and no person is acting as a specified person in any place;
- (g) the applicant is not operating or carrying on business under any scheme, order, compromise or other similar arrangement relating to the insolvency of the applicant entered into or made by the applicant in any place with any other person;
- (h) the applicant has served on all its creditors notice of the applicant's proposal to become a re-domiciled company;
- (i) any consent to or approval for the re-domiciliation required by any contract entered into or undertaking given by the applicant has been obtained or waived;

- (j) any consent to or approval for the deregistration required by any contract entered into or undertaking given by the applicant has been obtained or waived;
 - (k) the deregistration of the applicant is not prohibited under the law of the place of incorporation or by the constitutional document of the applicant;
 - (l) the proposed articles have been approved by the members of the applicant and resolved by them to be adopted with effect from the re-domiciliation date;
 - (m) the first financial year of the applicant at the place of incorporation ends on or before the application date;
 - (n) the application is not intended to defraud existing creditors of the applicant and is made in good faith; and
 - (o) the board of directors of the applicant—
 - (i) has made a full inquiry into the affairs of the applicant; and
 - (ii) has formed an opinion that the applicant will be able to pay its debts in full within the period of 12 months beginning on the application date.
- (3) For the purposes of subsection (2), the certificate mentioned in that subsection—
- (a) must be signed by a director of the applicant certifying that the director has been approved by resolution of the board of directors of the applicant to sign the certificate; and

- (b) must be issued by the board of directors of the applicant within 35 days before the application date.”.

77. Schedule 7 amended (offences in respect of which proceedings not instituted under certain conditions)

Schedule 7, item 9—

Repeal

“(in so far as it relates to the contravention of section 3(1) or (2), 4 or 5 of that Regulation)”

Substitute

“(Cap. 622 sub. leg. M), in so far as it relates to the contravention of section 3(1) or (2), 4 or 5 of that Regulation”.

78. Schedule 11 amended (transitional and saving provisions)

Schedule 11, Chinese text, section 2A(2)(b)—

Repeal

“註冊”

Substitute

“登記”.

79. Schedule 12 added

After Schedule 11—

Add

“Schedule 12

Provisions Specified for Section 2(5C)(c)

The following are provisions specified for the purposes of section 2(5C)(c)—

- (a) paragraph (c) of the definition of *company* in section 8 of Schedule 2 to the Trustee Ordinance (Cap. 29);
- (b) paragraph (c) of the definition of *company* in section 2(1) of the Money Lenders Ordinance (Cap. 163);
- (c) paragraph (c) of the definition of *company* referred to in Forms 2, 3, 5, 7, 9 and 11 in Schedule 2 to the Money Lenders Regulations (Cap. 163 sub. leg. A);
- (d) section 6(1) of the Civil Aviation Ordinance (Cap. 448);
- (e) article 4(3)(d)(i) of the Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C);
- (f) section 12(1)(c)(ii) of the Small Unmanned Aircraft Order (Cap. 448 sub. leg. G);
- (g) sections 180(3)(b) and 236(4)(b) of the Copyright Ordinance (Cap. 528)."

Part 3

Amendments to Subsidiary Legislation Made under Companies Ordinance (Cap. 622)

Division 1—Companies (Disclosure of Company Name and Liability Status) Regulation (Cap. 622 sub. leg. B)

80. Section 3 amended (display of registered name at registered office, etc)

Section 3—

Repeal subsection (4)

Substitute

“(4) Subsections (1), (2) and (3) do not apply to—

- (a) a re-domiciled company that has no accounting transaction at any time since its registration under section 820C(1) of the Ordinance takes effect; and
- (b) any other company that has no accounting transaction at any time since its incorporation.”.

Division 2—Companies (Directors’ Report) Regulation (Cap. 622 sub. leg. D)

81. Section 4 amended (donations)

(1) Section 4(1) and (2)(a)—

Repeal

“company (not being the wholly owned subsidiary of a company incorporated in Hong Kong)”

Substitute

“specified company”.

(2) Section 4—

Repeal subsection (3)

Substitute

“(3) In this section—

specified company (指明公司) means a company that is not—

(a) a wholly owned subsidiary of a company incorporated in Hong Kong or a re-domiciled company; or

(b) any other company that falls within the reporting exemption for the financial year;

wholly owned subsidiary (全資附屬公司) is to be construed in accordance with section 357(3) of the Ordinance.”.

(3) Section 4—

Repeal subsection (4).

Division 3—Companies (Non-Hong Kong Companies) Regulation (Cap. 622 sub. leg. J)

82. Title amended

The title—

Repeal

“Companies”

Substitute

“Companies and Other Companies to which Part 16 of Ordinance Applies”.

83. Section 2 amended (interpretation)

(1) Section 2, English text, definition of *place of business*—

Repeal

“Ordinance.”

Substitute

“Ordinance;”.

(2) Section 2, Chinese text—

Repeal the definition of 成立所在地.

(3) Section 2—

Add in alphabetical order

“*place of incorporation* (成立地) has the meaning given by section 774(1) of the Ordinance.”.

84. Section 3 amended (particulars to be contained in application for registration)

Section 3(1)(b) and (f)(ii) and (iii), Chinese text—

Repeal

“所在”.

85. Section 4 amended (documents to accompany application for registration)

(1) Section 4(1)(b)—

Repeal

“the company’s certificate of incorporation”

Substitute

“each of the company’s specified certificate”.

(2) Section 4(1)(c), (d)(i) and (e)(i), Chinese text—

Repeal

“所在”.

(3) Section 4—

Repeal subsection (2)**Substitute**

“(2) For the purposes of subsection (1)(b), if it is shown to the satisfaction of the Registrar that—

- (a) it is not the practice under the law of the place that a non-Hong Kong company claims to be the place in which it is incorporated to issue a certificate of incorporation; or
- (b) it is not the practice under the law of the place that a company claims to be the place to which it has transferred its domicile to issue a certificate certifying that it is registered as a company under the law of that place,

the company must deliver to the Registrar other evidence of the incorporation or transfer that the Registrar considers sufficient.”.

(4) After section 4(4)—

Add

“(5) In this section—

specified certificate (指明證明書)—see subsections (6) and (7).

(6) The certificate of incorporation (or the equivalent) issued under the law of the jurisdiction outside Hong Kong in which a non-Hong Kong company is incorporated is a specified certificate of the company.

(7) If, at any time after the incorporation of a non-Hong Kong company, the non-Hong Kong company—

- (a) has transferred its domicile to a jurisdiction outside Hong Kong; and

(b) is registered as a company under the law of that jurisdiction,

the certificate or other document issued under the law of that jurisdiction certifying that the non-Hong Kong company is registered as a company under the law of that jurisdiction is also a specified certificate of the company.”.

86. Section 7 amended (contents of application under section 5 and return under section 6)

After section 7(1)—

Add

“(1A) For the purposes of subsection (1), the certificate (or its equivalent) issued under the law of the company’s place of incorporation certifying that the company is registered as a company under the law of that place is the certificate of incorporation of the company.”.

87. Section 9 amended (particulars to be contained in annual return)

Section 9(1)(b) and (e)(ii) and (iii), Chinese text—

Repeal

“所在”.

88. Section 10 amended (interpretation)

Before section 10(2)(a)—

Add

“(aa) a reference to a registered non-Hong Kong company includes a re-domiciled company to which section 790 of the Ordinance applies;”.

Division 4—Companies (Fees) Regulation (Cap. 622 sub. leg. K)**89. Schedule 1 amended (fees payable in relation to registration of companies or for registration of documents)**

Schedule 1, Part 1, after item 6—

Add

- “6A. For lodging of a re-domiciliation form delivered under section 820B(2)(a) of the Ordinance and the other documents delivered under section 820B(2)(b) and (3)(c) of the Ordinance—
- | | |
|---|---------|
| (a) if the re-domiciliation form and the other documents are delivered in electronic form | \$1,030 |
| (b) if the re-domiciliation form and the other documents are delivered in hard copy form | \$1,145 |
- 6B. For registration of a body corporate under section 820C(1) of the Ordinance—
- | | |
|---------------------------------------|---------|
| (a) if the documents required for the | \$5,020 |
|---------------------------------------|---------|

purpose, as referred to in section 820B(2) and (3)(c) of the Ordinance, are delivered in electronic form

- (b) if those documents are delivered in hard copy form \$5,580”.

90. Schedule 2 amended (fees for inspecting or obtaining documents or information)

- (1) Schedule 2, Part 2, after item 3(b)—

Add

- | | | | |
|----------------------------------|------|------|------------------|
| “(ba) each re-domiciliation form | \$18 | \$16 | Not applicable”. |
|----------------------------------|------|------|------------------|

- (2) Schedule 2, Part 2, item 3(i)—

Repeal

“339”

Substitute

“338A, 339”.

- (3) Schedule 2, Part 2, after item 4(b)—

Add

- | | | | |
|----------------------------------|----------------|----------------|--------|
| “(ba) each re-domiciliation form | Not applicable | Not applicable | \$30”. |
|----------------------------------|----------------|----------------|--------|

- (4) Schedule 2, Part 2, item 4(i)—

Repeal

“339”

Substitute

“338A, 339”.

- (5) Schedule 2, Part 2, after item 5(b)—

Add

“(ba) each re-	\$23	\$21	Not
domiciliation			applicable”.
form			

- (6) Schedule 2, Part 2, item 5(i)—

Repeal

“339”

Substitute

“338A, 339”.

91. Schedule 4 amended (miscellaneous fees payable under Ordinance)

Schedule 4, Part 1, item 3(a)—

Repeal

“any specified charge described in section 334 of the Ordinance”

Substitute

“a charge”.

Division 5—Non-Hong Kong Companies (Disclosure of Company Name, Place of Incorporation and Members’ Limited Liability) Regulation (Cap. 622 sub. leg. M)**92. Title amended**

The title, Chinese text—

Repeal

“為法團所在地方”

Substitute

“地”.

93. Section 2 amended (interpretation)

- (1) Section 2(1)—

Add in alphabetical order“*place of incorporation* (成立地)—see subsection (4);”.

- (2) After section 2(3)—

Add

“(4) In this Regulation, a reference to a non-Hong Kong company’s place of incorporation—

- (a) is a reference to the jurisdiction outside Hong Kong in which the non-Hong Kong company is incorporated and under the law of which it is registered as a company; and
- (b) if, at any time after the incorporation of a non-Hong Kong company, the non-Hong Kong company has transferred its domicile to a jurisdiction outside Hong Kong and is registered as a company under the law of that jurisdiction—includes the jurisdiction under the law of which the non-Hong Kong company is currently so registered.”.

94. Section 3 amended (display of name and place of incorporation at business venue)

- (1) Section 3, Chinese text, heading—

Repeal

“為法團所在地方”

Substitute

“地”.

- (2) Section 3(1)—

Repeal

“its place of incorporation”

Substitute

“each place of incorporation”.

- (3) Section 3(2)—

Repeal

“the place of incorporation”

Substitute

“each place of incorporation”.

- (4) Section 3(3)—

Repeal

“both its name and its place of incorporation”

Substitute

“its name and each place of incorporation”.

- (5) Section 3(3)—

Repeal

“the name and the place of incorporation”

Substitute

“the name and each place of incorporation”.

- (6) Section 3(4)(a) and (b)—

Repeal

“the place of incorporation”

Substitute

“each place of incorporation”.

- 95. Section 4 amended (name and place of incorporation to appear in communication documents etc.)**

- (1) Section 4, Chinese text, heading—

Repeal

“為法團所在地方”

Substitute

“地”.

- (2) Section 4—

Repeal

“its place of incorporation”

Substitute

“each place of incorporation”.

- 96. Section 6 amended (duty to disclose certain matters while in liquidation)**

Section 6(2)(a)—

Repeal

“its place of incorporation”

Substitute

“each place of incorporation”.

Part 4**Related Amendments to Other Enactments****Division 1—Trustee Ordinance (Cap. 29)****97. Section 2 amended (interpretation)**

Section 2—

Add in alphabetical order*“re-domiciled company* (經遷冊公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);”.**98. Section 41Y amended (transfer of movable property not affected by foreign law of inheritance)**

(1) Section 41Y(1)(b)(ii)—

Repeal

“; or”

Substitute a semicolon.

(2) After section 41Y(1)(b)(ii)—

Add

“(iia) a re-domiciled company; or”.

(3) Section 41Y(1)(b)(iii), after “outside Hong Kong”—

Add

“that is not a re-domiciled company;”.

99. Section 68 amended (transfer of trust securities into name of Official Trustee)

(1) Section 68—

Renumber the section as section 68(1).

(2) Section 68(1)—

Repeal

“any public company or corporation established in Hong Kong”

Substitute

“a specified entity”.

(3) Section 68(1), English text—

Repeal

“shall be at liberty;”

Substitute

“may”.

(4) Section 68(1), English text—

Repeal

“his official designation) or to deposit the same in his”

Substitute

“the Official Trustee’s official designation) or to deposit the securities in the Official Trustee’s”.

(5) After section 68(1)—

Add

“(2) In this section—

specified entity (指明實體) means—

- (a) a public company or corporation established in Hong Kong; or
- (b) a body corporate registered under section 820C(1) of the Companies Ordinance (Cap. 622) as—
 - (i) a public company limited by shares; or

- (ii) a public unlimited company with a share capital.”.

100. Section 77 amended (application by company to be registered as a trust company)

(1) Section 77(1)—

Repeal

“Any company incorporated in Hong Kong (not being a private company within the meaning of section 11 of the Companies Ordinance (Cap. 622))”

Substitute

“A specified company”.

(2) After section 77(1)—

Add

“(1A) In subsection (1)—

specified company (指明公司)—

(a) means—

- (i) a company incorporated in Hong Kong; or
(ii) a re-domiciled company; but

(b) does not include a private company within the meaning of section 11 of the Companies Ordinance (Cap. 622).”.

101. Section 95 amended (investigation by inspector)

Section 95(1)—

Repeal paragraph (c)

Substitute

“(c) that the persons concerned with the formation of the trust company have, in connection with the formation, engaged

in fraud, misfeasance or other misconduct towards it or its members;

(ca) (if the trust company is a re-domiciled company) that the persons involved in seeking or obtaining the registration under section 820C(1) of the Companies Ordinance (Cap. 622) (*registration*) have, in connection with the registration, engaged in fraud, misfeasance or other misconduct towards it or its members;

(cb) that the persons concerned with the management of the trust company have, in connection with the management, engaged in fraud, misfeasance or other misconduct towards it or its members;”.

Division 2—Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32)

102. Section 2 amended (interpretation)

(1) Section 2(1), definition of *company*, paragraph (a)—

Repeal

“or”.

(2) Section 2(1), definition of *company*, paragraph (b)—

Repeal the semicolon

Substitute

“; or”.

(3) Section 2(1), definition of *company*, after paragraph (b)—

Add

“(c) a re-domiciled company;”.

(4) Section 2(1), definition of *non-Hong Kong company*, after “outside Hong Kong”—

Add

“, other than a re-domiciled company,”.

- (5) Section 2(1), definition of *prospectus*, paragraph (a)(i) and (ii)—

Repeal

“including a company incorporated outside Hong Kong”

Substitute

“whether it is incorporated in or outside Hong Kong”.

- (6) Section 2(1)—

Add in alphabetical order

“*re-domiciled company* (經遷冊公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);

re-domiciliation date (遷冊日) has the meaning given by section 820A of the Companies Ordinance (Cap. 622);

re-domiciliation form (遷冊表格) has the meaning given by section 820A of the Companies Ordinance (Cap. 622);”.

- (7) Section 2—

Repeal subsection (3)**Substitute**

“(3) A reference in this Ordinance to a body corporate or to a corporation—

(a) includes—

(i) a company; and

(ii) a company incorporated outside Hong Kong; but

(b) excludes a corporation sole.”.

103. Section 38B amended (advertisements concerning prospectuses)

- (1) Section 38B(1)—

Repeal

“a company whether incorporated in or outside Hong Kong”

Substitute

“a company (whether it is incorporated in or outside Hong Kong, and whether or not it has established a place of business in Hong Kong)”.

- (2) Section 38B(2B)—

Repeal

“a company, whether incorporated in or outside Hong Kong”

Substitute

“a company (whether it is incorporated in or outside Hong Kong, and whether or not it has established a place of business in Hong Kong)”.

104. Section 43 amended (prohibition of allotment in certain cases unless statement in lieu of prospectus delivered to Registrar)

After section 43(1)—

Add

“(1A) In subsection (1), a reference to a company’s formation is, in relation to a company that is a re-domiciled company, a reference to the time when the company becomes a re-domiciled company.”.

105. Section 177 amended (circumstances in which company may be wound up by court)

- (1) Section 177(1)(b)—

Repeal

“a year from its incorporation, or suspends its business for a whole year”

Substitute

“1 year after, or suspends its business for a continuous period of 1 year beginning on any day falling after, the specified date”.

(2) After section 177(2)—

Add

“(2A) For the purposes of subsection (2)(b) or (c), in determining the length of the period in the case of a re-domiciled company, the number of days prior to the re-domiciliation date of the company is to be disregarded.”.

(3) Section 177(7)—

Add in alphabetical order

“*specified date* (指明日期)—

- (a) in relation to a company that is not a re-domiciled company—means its date of incorporation; and
- (b) in relation to a re-domiciled company—means its re-domiciliation date;”.

106. Section 274 amended (liability where proper records not kept)

(1) Section 274(1)—

Repeal

“incorporation of the company”

Substitute

“specified date”.

(2) At the end of section 274—

Add

“(3) In this section—

specified date (指明日期)—

- (a) in relation to a company that is not a re-domiciled company—means its date of incorporation; and
- (b) in relation to a re-domiciled company—means its re-domiciliation date.”.

107. Section 327A amended (oversea companies may be wound up although dissolved)

(1) Section 327A, heading—

Repeal

“Oversea companies”

Substitute

“Certain companies incorporated outside Hong Kong”.

(2) Section 327A—

Renumber the section as section 327A(1).

(3) Section 327A(1), Chinese text—

Repeal

“凡在香港以外成立為法團並一向在香港經營業務的”

Substitute

“如某公司是在香港以外地方成立為法團的，並一向在香港經營業務，則當該”.

(4) After section 327A(1)—

Add

“(2) This section does not apply to a re-domiciled company.”.

108. Section 341A added

Part XII, before section 342—

Add

“341A. Interpretation of Part XII

In this Part, a reference to a company incorporated outside Hong Kong does not include a re-domiciled company.”.

109. Section 360BA added

After section 360B—

Add

“360BA. Power of Chief Executive in Council to order Registrar to refuse registration if satisfied that application to re-domicile is made to evade Societies Ordinance

(1) If the Registrar suspects that an application under section 820B(1) of the Companies Ordinance (Cap. 622) (*Cap. 622*) is made—

(a) with the object of circumventing—

(i) the refusal of the Societies Officer to register or to exempt from registration a society under the Societies Ordinance (Cap. 151) (*Cap. 151*);

(ii) the cancellation by the Societies Officer of the registration or exemption from registration of a society registered or exempted under Cap. 151; or

(iii) the prohibition of the operation or continued operation of a society by the Secretary for Security under section 8 of Cap. 151; or

(b) for the purpose of otherwise evading or defeating the provisions of Cap. 151 or anything done under Cap. 151,

the Registrar may withhold the registration concerned under section 820C(1) of Cap. 622 pending the receipt of

the instructions of the Chief Executive in Council given under subsection (2).

(2) If the Chief Executive in Council is satisfied that the application is made—

(a) with any object set out in subsection (1)(a); or

(b) for any purpose mentioned in subsection (1)(b),

the Chief Executive in Council may order the Registrar to refuse to register the company under section 820C(1) of Cap. 622.”.

110. Section 360C amended (power of the Chief Executive in Council to order company engaging in undesirable activities to be struck off)

(1) Section 360C(1)—

Repeal

“former Companies Ordinance”

Substitute

“former Companies Ordinance, or a re-domiciled company.”.

(2) After section 360C(3)—

Add

“(3A) Subsection (3) does not apply to a re-domiciled company.

(3B) For a re-domiciled company, a copy of the notice published under subsection (2) is to be sent by post or delivered by hand to—

(a) if the company has a registered office—the company at its registered office, addressed to the company; or

(b) if the company does not have a registered office—

- (i) if the name and address of any director or officer of the company are known to the Registrar—the company, addressed to the care of the director or officer of the company whose name and address are known to the Registrar; or
 - (ii) if there is no director or officer of the company whose name and address are known to the Registrar—each of the members of the company, addressed to the member at the address known to the Registrar.
- (3C) It is sufficient compliance with subsection (3B) that the notice has been published in the Gazette in accordance with subsection (2) if—
- (a) none of the addresses mentioned in subsection (3B) is available; or
 - (b) for any other reason, the Registrar considers it unlikely that any notice sent in accordance with subsection (3B) will come to the knowledge of the addressee.”.

111. Third Schedule amended (matters to be specified in prospectus and reports to be set out therein)

Third Schedule, paragraph 29—

Repeal

“date and country of incorporation, whether public or private (if applicable), the general nature of the business, the issued capital and the proportion thereof held or intended to be held, of every company”

Substitute

“the date and place of incorporation (and if the company has, after its incorporation, changed its place of domicile on one or more occasions, its place of domicile on each occasion and the date on which that place became its place of domicile), the general nature of the business, the issued capital and the proportion of the issued capital held or intended to be held, of every company, whether public or private (if applicable),”.

112. Nineteenth Schedule amended (contents and publication requirements of advertisements mentioned in section 38b(2)(e) of this Ordinance)

- (1) Nineteenth Schedule, English text, heading—

Repeal

“38b(2)(e)”

Substitute

“38B(2)(e)”.

- (2) Nineteenth Schedule, section 1(2)(a)—

Repeal

“and the place of incorporation of the company”

Substitute

“, the place of incorporation of the company, and if the company has, after its incorporation, changed its place of domicile on one or more occasions, its place of domicile on each occasion”.

113. Twentieth Schedule amended (amendment of prospectus consisting of one document)

- (1) Twentieth Schedule, Part 1, heading—

Repeal

“Companies Incorporated in Hong Kong”

Substitute**“Companies to which Part II of this Ordinance Applies”.**

- (2) Twentieth Schedule, Part 2, heading—

Repeal**“Companies Incorporated Outside Hong Kong”****Substitute****“Companies to which Part XII of this Ordinance Applies”.****114. Twenty-third Schedule amended (parent and subsidiary undertakings)**

Twenty-third Schedule, section 5(b)(ii)—

Repeal

everything after “permitted”

Substitute

“by—

- (A) unless sub-subparagraph (B) applies—the law under which that undertaking is established; or
- (B) if that undertaking has changed its place of domicile after its establishment—the law of the latest place of domicile of that undertaking.”.

**Division 3—Companies (Reports on Conduct of Directors)
Regulation (Cap. 32 sub. leg. J)****115. Schedule amended**

The Schedule, Form D1, Annex A, after paragraph 3—

Add

“3A. Re-domiciliation date (for a re-domiciled company)”.

**Division 4—Companies (Exemption of Companies and Prospectuses from Compliance with Provisions) Notice
(Cap. 32 sub. leg. L)****116. Section 2 amended (interpretation)**

- (1) Section 2—

Renumber the section as section 2(1).

- (2) After section 2(1)—

Add

“(2) In this Notice—

- (a) a reference to a company incorporated under a former Companies Ordinance or the Companies Ordinance (Cap. 622) includes a re-domiciled company; and
- (b) a reference to a company incorporated outside Hong Kong does not include a re-domiciled company.”.

Division 5—Insurance Ordinance (Cap. 41)**117. Section 2 amended (interpretation)**

- (1) Section 2(1)—

Repeal the definition of *company***Substitute****“*company* (公司) means—**

- (a) a company as defined by section 2(1) of the Companies Ordinance (Cap. 622); or
- (b) a non-Hong Kong company;”.

- (2) Section 2(1), definition of
- financial year***
- , paragraph (a)—

Repeal

everything after “required by”

Substitute

“—

- (i) subject to subparagraph (ii), the law under which the body corporate is incorporated, or (in the absence of such requirement by such law) its constitution; or
- (ii) for a body corporate that is a re-domiciled company—the law of Hong Kong;”.

- (3) Section 2(1), definition of *financial year*, paragraph (b)—

Repeal

everything after “required by”

Substitute

“—

- (i) subject to subparagraph (ii), the law under which the body corporate is incorporated, or (in the absence of such requirement by such law) its constitution; or
- (ii) for a body corporate that is a re-domiciled company—the law of Hong Kong;”.

- (4) Section 2(1), definition of *HK insurer*—

Repeal

everything after “means”

Substitute

“—

- (a) an authorized insurer that is incorporated in Hong Kong; or
- (b) an authorized insurer that is a re-domiciled insurer;”.

- (5) Section 2(1)—

Add in alphabetical order

“non-Hong Kong company (非香港公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);

re-domiciled company (經遷冊公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);

re-domiciled insurer (經遷冊保險人)—see section 3BA or 3BB;”.

- (6) Section 2(2)—

Repeal

everything after “include”

Substitute

“an insurer incorporated, established or formed in Hong Kong, or re-domiciled to Hong Kong, and carrying on insurance business outside Hong Kong, whether or not the insurer is also carrying on insurance business in or from Hong Kong.”.

118. Section 3B amended (designation of non-HK insurer)

Section 3B(2)—

Repeal

“from Hong Kong”

Substitute

“from Hong Kong, or becomes a re-domiciled insurer”.

119. Sections 3BA, 3BB and 3BC added

After section 3B—

Add

“3BA. Non-HK insurer to become re-domiciled insurer

- (1) A non-HK insurer becomes a re-domiciled insurer if it—

- (a) becomes a re-domiciled company; and
- (b) is deregistered from its place of incorporation.
- (2) If a non-HK insurer becomes a re-domiciled insurer under subsection (1), the date on which it is deregistered from its place of incorporation is taken to be the date on which it becomes a re-domiciled insurer.
- (3) Before a non-HK insurer applies under section 820B of the Companies Ordinance (Cap. 622) for registration as a re-domiciled company for the purposes of subsection (1)(a), the non-HK insurer must apply to the Authority for, and receive, from it, a letter of no-objection to the registration.
- (4) If a non-HK insurer contravenes subsection (3)—
 - (a) the Authority may exercise its powers under Parts V and VA in relation to the contravention; and
 - (b) the contravention does not affect the operation of subsection (1) in relation to the non-HK insurer.
- (5) An application made under subsection (3) must—
 - (a) be in the specified form;
 - (b) be accompanied by any information specified by the Authority; and
 - (c) be served on the Authority.
- (6) After deciding on a non-HK insurer's application under subsection (3), the Authority must give the insurer a written notice of the result of the application.
- (7) If the application made under subsection (3) is rejected by the Authority, the notice must include a statement of the reasons for the rejection.

3BB. Company incorporated outside Hong Kong that is not authorized insurer to become re-domiciled insurer

- (1) This section applies to a company (other than an authorized insurer) that—
 - (a) is incorporated outside Hong Kong; and
 - (b) later—
 - (i) becomes a re-domiciled company; and
 - (ii) is deregistered from its place of incorporation.
- (2) Such a company becomes a re-domiciled insurer if it becomes an authorized insurer.

3BC. Interpretation for sections 3BA and 3BB

In sections 3BA and 3BB—

deregister (撤銷註冊) has the meaning given by section 820E(6) of the Companies Ordinance (Cap. 622);

place of incorporation (成立地) has the meaning given by section 820A of the Companies Ordinance (Cap. 622).”

120. Section 5H amended (register of authorized insurers)

Section 5H(1)—

Repeal paragraph (a)

Substitute

- “(a) the name of every authorized insurer, its place of incorporation or place of domicile (if different from its place of incorporation) and the year of its first authorization (whether under this Ordinance or an Ordinance repealed or amended by this Ordinance);”.

121. Section 8 amended (authorization—long term business and general business)

Section 8(3)(e)—

Repeal

“as defined by section 2(1) of the Companies Ordinance (Cap. 622)”.

122. Section 9 amended (meaning of *controller* (控權人))

Section 9(3)—

Repeal

“designated insurer”

Substitute

“designated insurer or re-domiciled insurer”.

123. Section 13A amended (approval of certain controllers of authorized insurers)

(1) After section 13A(6B)—

Add

“(6C) If an individual is a managing director or chief executive of a non-HK insurer immediately before the date on which the non-HK insurer becomes a re-domiciled insurer under section 3BA(1)—

- (a) the individual is taken to be appointed as a controller of the re-domiciled insurer on that date; and
- (b) the appointment under paragraph (a) is taken to be approved under subsection (2) on that date.”.

(2) Section 13A(7)—

Repeal

“or (6B)”

Substitute

“, (6B) or (6C)”.

124. Section 13AC amended (approval of directors of HK insurers or designated insurers)

(1) After section 13AC(6A)—

Add

“(6B) If a person is a director of a non-HK insurer immediately before the date on which the non-HK insurer becomes a re-domiciled insurer under section 3BA(1)—

- (a) the person is taken to be appointed as a director of the re-domiciled insurer on that date; and
- (b) the appointment under paragraph (a) is taken to be approved under subsection (2) on that date.”.

(2) Section 13AC(7)—

Repeal

“(6A)”

Substitute

“(6A) or (6B)”.

125. Section 13AE amended (approval of key persons in control functions of certain authorized insurers)

(1) After section 13AE(6B)—

Add

“(6C) If an individual is a key person in control functions of a non-HK insurer immediately before the date on which the non-HK insurer becomes a re-domiciled insurer under section 3BA(1)—

- (a) the individual is taken to be appointed as a key person in control function of the re-domiciled insurer on that date; and
- (b) the appointment under paragraph (a) is taken to be approved under subsection (2) on that date.”

(2) Section 13AE(7)—

Repeal

“or (6B)”

Substitute

“, (6B) or (6C)”.

126. Section 13AF amended (conditions on approval given under sections 13A, 13AC, 13AE and 13B)

(1) Section 13AF(1A)(b)—

Repeal

“or (6B)”

Substitute

“, (6B) or (6C)”.

(2) Section 13AF(1B)(b)—

Repeal

“13AC(6A)”

Substitute

“13AC(6A) or (6B)”.

(3) Section 13AF(1C)(b)—

Repeal

“or (6B)”

Substitute

“, (6B) or (6C)”.

(4) Section 13AF(1D)(b)(i)—

Repeal

“13B(5)”

Substitute

“13B(5) or (5A)”.

127. Section 13B amended (approval of persons proposing to become shareholder controllers of certain HK insurers or designated insurers)

After section 13B(5)—

Add

“(5A) If a person is a minority shareholder controller or a majority shareholder controller of a non-HK insurer immediately before the date on which the non-HK insurer becomes a re-domiciled insurer under section 3BA(1), the person is taken to be approved under subsection (2B) as such a shareholder controller of the re-domiciled insurer on that date.”.

128. Section 13BA amended (objection to being shareholder controllers)

Section 13BA(2)(b)(i)—

Repeal

“13B(5)”

Substitute

“13B(5) or (5A)”.

129. Section 15AAA amended (appointment of actuary)

Section 15AAA(1)—

Repeal paragraph (c)**Substitute**

- “(c) an authorized insurer must appoint a qualified actuary as its actuary for its general business if it is—
- (i) an HK insurer that carries on general business;
 - (ii) a designated insurer that carries on general business; or
 - (iii) a non-HK insurer that carries on general business and in relation to which a permission under section 25AAC(1) is in effect; and”.

130. Section 15AAD amended (person who is authorized insurer’s actuary under section 15AAA(1)(a) or (b) immediately before certain events continues to be so)

- (1) Section 15AAD(1)(a)(iv)—

Repeal

“and”.

- (2) After section 15AAD(1)(a)(iv)—

Add

- “(v) the insurer becoming a re-domiciled insurer under section 3BA(1); and”.

131. Section 15AAE amended (person who is authorized insurer’s actuary under section 15AAA(1)(c) or (d) immediately before certain events continues to be so)

- (1) Section 15AAE(1)(a)(iv)—

Repeal

“and”.

- (2) After section 15AAE(1)(a)(iv)—

Add

- “(v) the insurer becoming a re-domiciled insurer under section 3BA(1); and”.

132. Section 17 heading amended (submission of statements, report or other information)

Section 17, English text, heading—

Repeal

“report”

Substitute

“reports”.

133. Section 35 amended (residual power to impose requirements, etc.)

Section 35(4)—

Repeal

“as defined by section 2(1) of the Companies Ordinance (Cap. 622) shall”

Substitute

“must”.

134. Section 51 amended (exempted persons)

- (1) Section 51(b)(i)—

Repeal

“incorporated in Hong Kong”

Substitute

“that is incorporated in Hong Kong or is a re-domiciled company”.

- (2) Section 51(b)(ii)—

Repeal

“elsewhere which”

Substitute

“outside Hong Kong (other than a re-domiciled company) that”.

135. Section 53B amended (disclosure of information)

Section 53B(1A)(c)—

Repeal

“Hong Kong”

Substitute

“Hong Kong or is a re-domiciled company,”.

136. Section 64P amended (duty to notify Authority of change in particulars)

After section 64P(2)—

Add

“(2A) If a licensed insurance intermediary that is a non-Hong Kong company later becomes a re-domiciled company, the licensed insurance intermediary must notify the Authority in writing of such fact within 14 days after it becomes a re-domiciled company.”.

137. Section 72 amended (licensed insurance broker company must appoint auditor)

Section 72(1)(b)—

Repeal

“Hong Kong”

Substitute

“Hong Kong (other than a re-domiciled company)”.

138. Section 78 amended (exemptions for authorized insurers, etc.)

(1) Section 78(3A)(a)—

Repeal

“incorporated in Hong Kong”

Substitute

“that is incorporated in Hong Kong or is a re-domiciled company”.

(2) Section 78(3A)(b)—

Repeal

“elsewhere which”

Substitute

“outside Hong Kong (other than a re-domiciled company) that”.

139. Section 95A amended (interpretation of Part XIA)Section 95A(1), definition of *insurance holding company*—**Repeal**

“company incorporated in Hong Kong”

Substitute

“Hong Kong company”.

140. Schedule 9 amended (specified decisions)

Schedule 9, Part 1, before item 1—

Add

“ 1AA.	Objection to a non-HK insurer to become a re-domiciled insurer	Section 3BA(6)	”.
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Division 6—Insurance (Financial and Other Requirements for Licensed Insurance Broker Companies) Rules (Cap. 41 sub. leg. L)

141. Rule 2 amended (interpretation)

- (1) Rule 2(1), definition of *applicable accounting standards*, paragraph (a)—

Repeal

“incorporated in Hong Kong,”

Substitute

“incorporated in Hong Kong, or is a re-domiciled company,”.

- (2) Rule 2(1), Chinese text, definition of 適用的會計準則, paragraph (b)—

Repeal

“公司，則為”

Substitute

“公司——”.

Division 7—Insurance (Group Capital) Rules (Cap. 41 sub. leg. O)

142. Rule 8 amended (treatment of double-counting)

- (1) Rule 8(5)—

Repeal

“formed, then”

Substitute

“formed, or (where it is a re-domiciled company) including Hong Kong and the jurisdiction in which it is incorporated or formed, then”.

- (2) Rule 8(5)(a)—

Repeal

everything after “group member in the”

Substitute

“following jurisdiction must be included in the group minimum capital requirement of its supervised group—

- (i) subject to subparagraph (ii), the jurisdiction in which the supervised group member is incorporated or formed (if the supervised group member is a regulated entity in that jurisdiction); or
- (ii) where the supervised group member is a re-domiciled company—Hong Kong (if the supervised group member is a regulated entity in Hong Kong);”.

- (3) Rule 8(5)(b)—

Repeal

everything after “group member in the”

Substitute

“following jurisdiction must be included in the group prescribed capital requirement of its supervised group—

- (i) subject to subparagraph (ii), the jurisdiction in which the supervised group member is incorporated or formed (if the supervised group member is a regulated entity in that jurisdiction); or

- (ii) where the supervised group member is a re-domiciled company—Hong Kong (if the supervised group member is a regulated entity in Hong Kong);”.
- (4) Rule 8(5)(c)—
Repeal
everything after “group member in the”
Substitute
“following jurisdiction must be included in the eligible group capital resources of its supervised group—
- (i) subject to subparagraph (ii), the jurisdiction in which the supervised group member is incorporated or formed (if the supervised group member is a regulated entity in that jurisdiction); or
- (ii) where the supervised group member is a re-domiciled company—Hong Kong (if the supervised group member is a regulated entity in Hong Kong); and”.
- (5) Rule 8(5)(d)—
Repeal
everything after “that rule, in the”
Substitute
“following jurisdiction—
- (i) subject to subparagraph (ii), the jurisdiction in which the supervised group member is incorporated or formed (if the supervised group member is a regulated entity in that jurisdiction); or
- (ii) where the supervised group member is a re-domiciled company—Hong Kong (if the supervised group member is a regulated entity in Hong Kong).”.

- (6) Rule 8(6)—
Repeal
“then—”
Substitute
“or (where it is a re-domiciled company) is a regulated entity only in jurisdictions other than Hong Kong and the jurisdiction in which it is incorporated or formed, then—”.

Division 8—Inland Revenue Ordinance (Cap. 112)**143. Section 2 amended (interpretation)**

- (1) Section 2(1)—
Add in alphabetic order
“*re-domiciled company* (經遷冊公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);”.
- (2) After section 2(8)—
Add
“(9) A reference in this Ordinance to a company or entity established or incorporated in Hong Kong includes a re-domiciled company.
(10) A reference in this Ordinance (other than sections 17A and 50A) to a company or entity established or incorporated outside Hong Kong does not include a re-domiciled company.”.

144. Section 17A amended (financial institution: interpretation)

- Section 17A(1), definition of *regulatory capital security*, paragraph (e)—
Repeal
“, an instrument”

Substitute

“(other than a re-domiciled entity as defined by section 2(1) of the Banking Ordinance (Cap. 155)), an instrument”.

145. Section 23 amended (ascertainment of assessable profits: life insurance business)

Section 23(4B)—

Repeal

“The”

Substitute

“Subject to sections 7 and 8 of Schedule 17L, the”.

146. Section 23AAA amended (ascertainment of assessable profits: non-life long term insurance business)

(1) After section 23AAA(2)—

Add

“(2A) Despite subsections (1) and (2), sections 9 and 10 of Schedule 17L apply to a re-domiciled insurer in relation to its assessable profits for the year of assessment to which its critical basis period (as defined by section 1 of that Schedule) relates.”.

(2) After section 23AAA(3)—

Add

“(4) In this section—

re-domiciled insurer (經遷冊保險人) has the meaning given by section 3BA or 3BB of Cap. 41.”.

147. Section 23AAAC amended (adjustment to assessable profits due to change in insurance capital requirements: election)

Section 23AAAC(1)—

Repeal

“sections 23(1) and 23AAA(1)”

Substitute

“sections 23(1) and 23AAA(1) and sections 7, 8, 9 and 10 of Schedule 17L”.

148. Section 23AAAD amended (adjustment to assessable profits due to change in insurance capital requirements: life insurance business)

(1) Section 23AAAD(1)—

Repeal

“in accordance with”

Substitute

“under”.

(2) Section 23AAAD(2)—

Repeal

“in accordance with”

Substitute

“under”.

149. Section 23AAAE amended (adjustment to assessable profits due to change in insurance capital requirements: non-life long term insurance business)

(1) Section 23AAAE(1)—

Repeal

“in accordance with”

Substitute

“under”.

- (2) Section 23AAAE(2)—

Repeal

“in accordance with”

Substitute

“under”.

150. Section 23AA amended (mutual insurance corporations)

- (1) Section 23AA(1)—

Repeal

“Part,”

Substitute

“Part and Schedule 17L.”

- (2) Section 23AA(2)(a)—

Repeal

“23AE”

Substitute

“23AE and sections 7, 8, 9 and 10 of Schedule 17L”.

151. Part 6H added

After Part 6G—

Add

“Part 6H

Tax Treatment for Re-domiciled Company

40AZA. Schedule 17L: tax treatment for re-domiciled company

Schedule 17L contains supplementary provisions for tax treatment for a re-domiciled company.”.

152. Section 50A amended (interpretation)

After section 50A(16)—

Add

“(16AA) For the purposes of subsections (15)(a) and (16)(b), a re-domiciled company is to be regarded as a company incorporated in Hong Kong instead of a company incorporated outside Hong Kong.”.

153. Schedule 17L added

After Schedule 17K—

Add

“Schedule 17L

[ss. 23, 23AAA,
23AAAC, 23AA &
40AZA & Sch. 45]

Tax Treatment for Re-domiciled Company

Part 1

Preliminary

1. Interpretation

In this Schedule—

Cap. 41 (《第 41 章》) means the Insurance Ordinance (Cap. 41);

Cap. 622 (《第 622 章》) means the Companies Ordinance (Cap. 622);

critical basis period (關鍵評稅基期), in relation to a corporation that is a re-domiciled insurer, means the basis period of the corporation in which the critical date falls;

critical date (關鍵日), in relation to a corporation that is a re-domiciled insurer, means the date on which the corporation becomes such an insurer under section 3BA or 3BB of Cap. 41;

critical year (關鍵年度), in relation to a corporation that is a re-domiciled insurer, means the year of assessment to which its critical basis period relates;

designated insurer (指定保險人) has the meaning given by section 2(1) of Cap. 41;

life insurance business (人壽保險業務) has the meaning given by section 22D;

life insurance fund (人壽保險基金) has the meaning given by section 22D;

non-HK insurer (非香港保險人) has the meaning given by section 2(1) of Cap. 41;

non-life long term insurance business (非人壽長期保險業務) has the meaning given by section 22D;

non-life long term insurance fund (非人壽長期保險基金) has the meaning given by section 22D;

place of incorporation (成立地), in relation to a re-domiciled company, has the meaning given by section 820A of Cap. 622;

re-domiciled insurer (經遷冊保險人) has the meaning given by section 3BA or 3BB of Cap. 41;

re-domiciliation date (遷冊日) has the meaning given by section 820A of Cap. 622;

re-domiciliation year (遷冊年度), in relation to a re-domiciled company, means the year of assessment in which the re-domiciliation date falls;

report (報告) has the meaning given by section 22D.

Part 2

Provisions Relating to Part 4

2. Provisions regarding expense or expenditure incurred before re-domiciliation date—supplementary provisions for ascertaining profits chargeable to tax under Part 4

(1) Without affecting Division 4 of Part 4, in ascertaining the profits in respect of which a re-domiciled company is chargeable to tax under Part 4, any expense or expenditure incurred by the re-domiciled company before the re-domiciliation date in producing the profits is allowed to be deducted if—

- (a) no deduction or relief is allowable in respect of the expense or expenditure for tax under Part 4; and
- (b) no deduction or relief has been allowed in respect of the expense or expenditure for a similar tax imposed under the law of a place outside Hong Kong.

(2) In this section—

similar tax (類似稅項) means a tax of substantially the same nature as tax imposed under Part 4.

3. Provisions regarding cost of trading stock acquired before re-domiciliation date—supplementary provisions for ascertaining profits chargeable to tax under Part 4

(1) This section applies to a re-domiciled company if—

- (a) the re-domiciled company—
 - (i) has, before the re-domiciliation date, acquired any trading stock for a trade or business carried on outside Hong Kong by the company; but
 - (ii) has not carried on in Hong Kong, before that date, the trade or business; and
- (b) the trading stock—
 - (i) was not used, before the re-domiciliation date, for any other Hong Kong business; but
 - (ii) is used by the company, on or after that date, for a Hong Kong business.
- (2) Without affecting sections 15BA and 15C, and subject to subsection (3), in ascertaining the profits in respect of which the re-domiciled company is chargeable to tax under Part 4, the cost of the trading stock is—
 - (a) the cost incurred by the company in acquiring the trading stock; or
 - (b) the net realizable value of the trading stock on the re-domiciliation date,
 whichever is the lower.
- (3) If the amount under subsection (2)(a) (*relevant amount*) and that under subsection (2)(b) are the same, the cost of the trading stock is the relevant amount.
- (4) In this section—

Hong Kong business (香港業務), in relation to a re-domiciled company, means a trade or business carried on in Hong Kong by the re-domiciled company;

trading stock (營業存貨) has the meaning given by section 15BA(1).

- 4. **Provisions regarding expenditure incurred on registration of intellectual property rights or building refurbishment—supplementary provisions for sections 16(1)(g) and 16F**
- (1) This section applies to a re-domiciled company if—
 - (a) the re-domiciled company—
 - (i) has, before the re-domiciliation date, incurred any specified expenditure on asset or right (*specified expenditure*) in relation to a trade, profession or business carried on outside Hong Kong by the company; but
 - (ii) has not carried on in Hong Kong, before that date, the trade, profession or business;
 - (b) section 2(1)(a) and (b) of this Schedule is satisfied in relation to the specified expenditure; and
 - (c) the asset or right to which the specified expenditure relates—
 - (i) was not used, before the re-domiciliation date, for any other Hong Kong business; but
 - (ii) is used by the company, on or after that date, for a Hong Kong business.
- (2) For the purposes of section 16(1)(g) or 16F (as the case requires), the specified expenditure incurred by the re-domiciled company before the re-domiciliation date is taken to have been incurred by the company in the basis period for the relevant year of assessment.
- (3) In this section—

asset or right (資產或權利) means—

 - (a) a trade mark or design;
 - (b) a patent or plant variety right; or

- (c) a building or structure within the meaning of section 16F;

Hong Kong business (香港業務), in relation to a re-domiciled company, means a trade, profession or business carried on in Hong Kong by the re-domiciled company;

relevant year of assessment (相關課稅年度), in relation to a re-domiciled company—

- (a) if the re-domiciled company uses the asset or right for any Hong Kong business in the re-domiciliation year—means the re-domiciliation year; and
- (b) in any other case—means the year of assessment in which the company begins to use the asset or right for any Hong Kong business;

specified expenditure on asset or right (在資產或權利方面的指明開支) means—

- (a) a sum expended for the registration of a trade mark or design;
- (b) a sum expended for the registration or grant of a patent or plant variety right; or
- (c) any capital expenditure on the renovation or refurbishment of a building or structure to which section 16F applies.

5. Provisions regarding expenditure in relation to R&D activity—supplementary provisions for section 16B

- (1) This section applies to a re-domiciled company if—

- (a) the re-domiciled company—
- (i) has, before the re-domiciliation date, incurred any R&D expenditure in relation to a trade, profession or business carried on outside Hong Kong by the company; but

- (ii) has not carried on in Hong Kong, before the re-domiciliation date, the trade, profession or business;

- (b) section 2(1)(a) and (b) of this Schedule is satisfied in relation to the R&D expenditure;
- (c) before the re-domiciliation date, the R&D activity to which the R&D expenditure relates (**relevant activity**) was not an R&D activity related to any other Hong Kong business; and
- (d) on or after the re-domiciliation date, the relevant activity becomes, or becomes also, an R&D activity related to a Hong Kong business.

- (2) For the purposes of section 16B, the R&D expenditure incurred by the re-domiciled company before the re-domiciliation date is taken to have been incurred by the company in the basis period for the relevant year of assessment.

- (3) In this section—

Hong Kong business (香港業務), in relation to a re-domiciled company, means a trade, profession or business carried on in Hong Kong by the re-domiciled company;

R&D activity (研發活動)—

- (a) has the meaning given by section 2 of Schedule 45; and
- (b) includes—
- (i) an R&D activity related to a trade, profession or business; and
- (ii) an R&D activity related to a class of trade, profession or business;

R&D activity related to a class of trade, profession or business (關乎某類行業、專業或業務的研發活動) has the same meaning as in section 3(2) of Schedule 45;

R&D activity related to a trade, profession or business (關乎某行業、專業或業務的研發活動) has the same meaning as in section 3(1) of Schedule 45;

R&D expenditure (研發開支) has the meaning given by section 6 of Schedule 45;

relevant year of assessment (相關課稅年度), in relation to a re-domiciled company—

- (a) if, in the re-domiciliation year, the relevant activity becomes, or becomes also, an R&D activity related to a Hong Kong business—means the re-domiciliation year; and
- (b) in any other case—means the year of assessment in which the relevant activity first becomes, or first becomes also, an R&D activity related to a Hong Kong business.
- (4) For the purposes of this section, a reference to a trade, profession or business includes a class of a trade, profession or business.

6. Provisions regarding expenditure incurred on purchase of patent rights etc. or on provision of prescribed fixed assets or environmental protection facilities—supplementary provisions for sections 16E, 16EA, 16G and 16I

- (1) This section applies to a re-domiciled company if—
 - (a) the re-domiciled company—
 - (i) has, before the re-domiciliation date, incurred any specified expenditure on asset or right (*specified expenditure*) in relation to a trade,

profession or business carried on outside Hong Kong by the company; but

- (ii) has not carried on in Hong Kong, before the re-domiciliation date, the trade, profession or business;
- (b) section 2(1)(a) and (b) of this Schedule is satisfied in relation to the specified expenditure; and
- (c) the asset or right to which the specified expenditure relates (*specified asset or right*)—
 - (i) was not used, before the re-domiciliation date, for any other Hong Kong business; but
 - (ii) is used by the company, on or after that date, for a Hong Kong business.
- (2) Subsections (3) and (4) apply in relation to the specified asset or right for the purposes of section 16E, 16EA, 16G or 16I (as the case requires).
- (3) The specified expenditure is taken to have been incurred by the re-domiciled company in the basis period for the relevant year of assessment.
- (4) The total amount of the specified expenditure is—
 - (a) the amount determined in accordance with subparagraph (i) or the amount mentioned in subparagraph (ii), whichever is the lower—
 - (i) the aggregate of the actual amount of the specified expenditure minus the accumulated amortization and impairment losses in respect of the specified asset or right up to the re-domiciliation date;
 - (ii) the amount of the market value of the specified asset or right as at the re-domiciliation date; or

- (b) if the amount determined in accordance with paragraph (a)(i) (*relevant amount*) and the amount mentioned in paragraph (a)(ii) are the same—the relevant amount.

(5) In this section—

Hong Kong business (香港業務), in relation to a re-domiciled company, means a trade, profession or business carried on in Hong Kong by the re-domiciled company;

know-how (工業知識) has the meaning given by section 16E(4);

patent rights (專利權) has the meaning given by section 16E(4);

relevant year of assessment (相關課稅年度), in relation to a re-domiciled company—

- (a) if the re-domiciled company uses the specified asset or right for any Hong Kong business in the re-domiciliation year—means the re-domiciliation year; and
- (b) in any other case—means the year of assessment in which the company begins to use the specified asset or right for any Hong Kong business;

specified expenditure on asset or right (在資產或權利方面的指明開支), in relation to a re-domiciled company, means—

- (a) any capital expenditure incurred by the company on the purchase of any patent rights or rights to any know-how; or
- (b) any specified capital expenditure within the meaning of section 16EA, 16G or 16H.

7. Supplementary provisions for section 23—provisions regarding life insurance business carried on by re-domiciled insurers in Hong Kong in critical basis period—for non-HK insurers who become re-domiciled insurers

- (1) This section applies to a corporation that is a re-domiciled insurer within the meaning of section 3BA of Cap. 41 if the conditions set out in subsection (2) are satisfied.
- (2) The conditions are—
 - (a) the corporation was not a designated insurer immediately before the critical date;
 - (b) the corporation carries on any life insurance business in Hong Kong on the critical date or after that date in the critical basis period; and
 - (c) the corporation—
 - (i) has carried on, before the critical date, any life insurance business outside Hong Kong;
 - (ii) continues to carry on, or carries on, such business outside Hong Kong on the critical date or after that date in the critical basis period; and
 - (iii) has elected to be assessed in the manner provided in section 23(1)(b).
- (3) Subject to subsection (4), if a report is made under section 23(2) by the corporation in respect of a period ending immediately before the critical basis period—
 - (a) the deficit as at the date immediately before the critical date that is attributable to the life insurance business carried on by the corporation outside Hong Kong (*specified deficit*) is to be added to the deficit required to be added under section 23(4B)(a)(i) for

- the purpose of ascertaining the adjusted surplus deemed to arise in the critical basis period (*adjusted surplus*); and
- (b) the surplus as at the date immediately before the critical date that is attributable to the life insurance business carried on by the corporation outside Hong Kong (*specified surplus*) is to be added to the surplus required to be deducted under section 23(4B)(b)(i) for the purpose mentioned in paragraph (a).
- (4) Subsections (5) and (6) apply if—
- (a) the corporation has not carried on any life insurance business in Hong Kong before the critical date; or
- (b) did not make any report under section 23(2) in respect of a period ending immediately before the critical basis period.
- (5) The specified deficit is to be the deficit required to be added under section 23(4B)(a)(i) for the purpose of ascertaining the adjusted surplus.
- (6) The specified surplus is to be the surplus required to be deducted under section 23(4B)(b)(i) for the purpose mentioned in subsection (5).
- 8. Supplementary provisions for section 23—provisions regarding life insurance business carried on by certain other re-domiciled insurers in Hong Kong in critical basis period**
- (1) This section applies to a corporation that is a re-domiciled insurer within the meaning of section 3BB of Cap. 41 if—

- (a) the corporation carries on any life insurance business in Hong Kong on the critical date or after that date in the critical basis period;
- (b) the corporation—
- (i) has carried on, before the critical date, any life insurance business outside Hong Kong; and
- (ii) continues to carry on, or carries on, such business outside Hong Kong on the critical date or after that date in the critical basis period; and
- (c) the corporation has elected to be assessed in the manner provided in section 23(1)(b).
- (2) The deficit required to be added under section 23(4B)(a)(i) for the purpose of ascertaining the adjusted surplus deemed to arise in the critical basis period is to be the deficit as at the date immediately before the critical date that is attributable to the life insurance business carried on by the corporation outside Hong Kong.
- (3) The surplus required to be deducted under section 23(4B)(b)(i) for the purpose mentioned in subsection (2) is to be the surplus as at the date immediately before the critical date that is attributable to the life insurance business carried on by the corporation outside Hong Kong.
- 9. Supplementary provisions for section 23AAA—provisions regarding non-life long term insurance business carried on by re-domiciled insurers in critical year—for non-HK insurers who become re-domiciled insurers**
- (1) This section applies to a corporation that is a re-domiciled insurer within the meaning of section 3BA of Cap. 41 if

the corporation was not a designated insurer immediately before the critical date.

- (2) The assessable profits for the critical year of the corporation, whether mutual or proprietary, from its non-life long term insurance business, are that part of the adjusted surplus deemed to arise in the critical basis period, as ascertained in accordance with section 23(4), (4A), (4B), (5) and (7) and section 7 of this Schedule (as applied and modified under subsection (3)).
- (3) Section 23(4), (4A), (4B), (5), (7), (8) and (9) and section 7 of this Schedule apply in relation to the non-life long term insurance business as if—
 - (a) a reference in those sections to life insurance business were a reference to non-life long term insurance business;
 - (b) a reference in those sections to non-life long term insurance business were a reference to life insurance business; and
 - (c) a reference in those sections to life insurance fund were a reference to non-life long term insurance fund.

10. Supplementary provisions for section 23AAA—provisions regarding non-life long term insurance business carried on by certain other re-domiciled insurers in critical year

- (1) This section applies to a corporation that is a re-domiciled insurer within the meaning of section 3BB of Cap. 41.
- (2) The assessable profits for the critical year of the corporation, whether mutual or proprietary, from its non-life long term insurance business, are that part of the adjusted surplus deemed to arise in the basis period for that year, as ascertained in accordance with section 23(4),

(4A), (4B), (5) and (7) and section 8 of this Schedule (as applied and modified under subsection (3)).

- (3) Section 23(4), (4A), (4B), (5), (7), (8) and (9) and section 8 of this Schedule apply in relation to the non-life long term insurance business as if—
 - (a) a reference in those sections to life insurance business were a reference to non-life long term insurance business;
 - (b) a reference in those sections to non-life long term insurance business were a reference to life insurance business; and
 - (c) a reference in those sections to life insurance fund were a reference to non-life long term insurance fund.

Part 3

Provisions Relating to Part 6

11. Provisions regarding expenditure on provision of machinery and plant—supplementary provisions for Part 6

- (1) This section applies to a re-domiciled company if—
 - (a) the re-domiciled company has, before the re-domiciliation date, incurred any capital expenditure on the provision of machinery or plant in relation to a trade, profession or business carried on outside Hong Kong by the company;
 - (b) the company has not carried on in Hong Kong, before the re-domiciliation date, the trade, profession or business; and

- (c) the machinery or plant to which the capital expenditure relates (*specified asset*)—
 - (i) was not used before that date for a Hong Kong business; but
 - (ii) is used on or after the re-domiciliation date by the company for a Hong Kong business.
- (2) Subsections (3), (4) and (5) apply in relation to the specified asset for the purposes of Part 6.
- (3) Any capital expenditure on the provision of machinery or plant incurred before the re-domiciliation date by the re-domiciled company in relation to the specified asset (*specified capital expenditure*) is taken to have been incurred for the purpose of producing profits chargeable to tax under Part 4 by the company in the basis period for the relevant year of assessment.
- (4) The total amount of specified capital expenditure incurred in relation to the specified asset is—
 - (a) if the specified asset is acquired by the company otherwise than under a hire purchase agreement—
 - (i) the amount determined in accordance with sub-subparagraph (A) or the amount mentioned in sub-subparagraph (B), whichever is the lower—
 - (A) the amount of the actual cost of the specified asset minus the notional amount of the annual allowance which would have been made under section 37(2) or 39B(2) if the specified asset had been used by the company for the purpose of producing profits chargeable to tax under Part 4 after its acquisition;

- (B) the amount of the market value of the specified asset as at the re-domiciliation date; or
- (ii) where the amount determined in accordance with subparagraph (i)(A) and the amount mentioned in subparagraph (i)(B) are the same—the amount so determined; and
- (b) if the specified asset is acquired by the re-domiciled company under a hire purchase agreement—the amount determined in accordance with the following formula—

$$\frac{A}{B} \times C$$
 - where: A means the aggregate of the capital portion of each instalment payment made by the re-domiciled company up to the end of the basis period for the re-domiciliation year;
 - B means the aggregate of the capital portion of each instalment payment required to be made by the re-domiciled company under the hire purchase agreement; and
 - C means the amount ascertained in the manner specified in subsection (4)(a).
- (5) If the specified asset is acquired by the re-domiciled company under a hire purchase agreement, the total amount of capital expenditure on the provision of machinery or plant incurred by the company in relation to the specified asset in the basis period for a year of assessment after the re-domiciliation year is to be determined in accordance with the following formula—

$$\frac{D}{E} \times F$$

- where: D means the aggregate of the capital portion of each instalment payment made by the re-domiciled company in the basis period;
- E means the aggregate of the capital portion of each instalment payment required to be made by the company under the hire purchase agreement; and
- F means the amount ascertained in the manner specified in subsection (4)(a).

(6) In this section—

capital expenditure on the provision of machinery or plant (在提供機械或工業裝置方面的資本開支) has the meaning given by section 40(1);

Hong Kong business (香港業務), in relation to a re-domiciled company, means a trade, profession or business carried on in Hong Kong by the re-domiciled company;

relevant year of assessment (相關課稅年度), in relation to a re-domiciled company—

- (a) if the re-domiciled company uses the specified asset for any Hong Kong business in the re-domiciliation year—means the re-domiciliation year; and
- (b) in any other case—means the year of assessment in which the company begins to use the specified asset for any Hong Kong business.

Part 4

Specified Tax Credits

12. Provisions regarding unilateral tax credits for re-domiciled company

- (1) This section applies to a re-domiciled company if—
 - (a) the re-domiciled company has been charged to tax under the law of its place of incorporation (*specified tax*) in respect of any income derived or received, or taken to have been derived or received, by the company because of its registration under section 820C(1) of Cap. 622 (*specified income*);
 - (b) the specified tax is of substantially the same nature as tax imposed under Part 4 (*profits tax*); and
 - (c) profits tax is payable in relation to any such income (*relevant income*) for the re-domiciliation year or any subsequent year of assessment (*particular year*).
- (2) If a claim is made under section 13 of this Schedule in relation to the specified tax that has been charged in respect of the specified income, subject to section 14 of this Schedule and subsections (3), (4), (5), (6), (7) and (8), the amount so claimed may be allowed as a credit against the profits tax payable in relation to the relevant income (*credit*).
- (3) The amount of the relevant income in respect of which credit may be allowed for each claim must not exceed the amount of the specified income to which the claim relates.
- (4) Without affecting subsection (3), if more than one claim is made under section 13 of this Schedule in relation to

- the registration of a corporation under section 820C(1) of Cap. 622, the aggregate of the amounts of the relevant income in respect of which credit may be allowed in relation to that registration must not exceed the total amount of the specified income concerned.
- (5) Subject to subsections (3) and (4), the amount of the credit that may be allowed to the re-domiciled company for a particular year is to be determined in accordance with subsections (6), (7) and (8).
- (6) The amount of the credit allowed for a particular year is to be—
- (a) the amount claimed by the company under section 13 of this Schedule, to the extent that it has been paid for the specified tax; or
 - (b) the amount of the profits tax payable for that year by the company in respect of the relevant income,
- whichever is the lower.
- (7) If the amount mentioned in subsection (6)(a) is equal to the amount mentioned in subsection (6)(b) (*relevant amount*), the amount of the credit allowed to the re-domiciled company for the particular year is to be the relevant amount.
- (8) If the amount mentioned in subsection (6)(a) exceeds the amount mentioned in subsection (6)(b), the excess amount is allowed to be deducted for the re-domiciled company for the particular year.
- (9) In this section—
income (收入) includes profits.

13. Claim for allowance by way of credit—supplementary provisions for section 12 of this Schedule

- (1) A re-domiciled company may make a claim for an allowance, by way of a credit against tax payable under Part 4 (*profits tax*), in relation to any income described in section 12(1) of this Schedule (*specified income*).
- (2) However—
- (a) a claim may only be made by a re-domiciled company under subsection (1) before—
 - (i) the end of 6 years after the end of the year of assessment for which the specified income concerned (*relevant income*) is chargeable to profits tax; or
 - (ii) the end of 6 months after the date on which an assessment is made imposing liability or additional liability to profits tax in respect of the relevant income,
 whichever is the later; and
 - (b) no claim may be made if a copy of the revocation order against the company is published in the Gazette under section 820F of Cap. 622.
- (3) If a re-domiciled company makes a claim under subsection (1), and an assessor refuses to allow a credit pursuant to the claim, the assessor must give the re-domiciled company a written notice of the refusal.
- (4) The re-domiciled company to whom the notice is given has the same rights of objection and appeal under Part 11 as if the notice were a notice of assessment.
- (5) In this section—
income (收入) includes profits.

14. General provisions on specified tax credits

- (1) The amount of credit allowed under section 12 of this Schedule (*specified tax credit*) to a re-domiciled company must not exceed the amount of the relief that would be granted had all foreign tax minimization steps been taken by the company.
- (2) For the purposes of subsection (1)—
 - (a) all foreign tax minimization steps are taken only if all reasonable steps are taken under the law of the place of incorporation of the company to minimize the amount of the tax payable in that place in respect of the income mentioned in section 12(1)(a) of this Schedule (*specified tax*); and
 - (b) the reasonable steps mentioned in paragraph (a) include—
 - (i) claiming, or otherwise securing the benefit of, relief, deductions, reductions or allowances; and
 - (ii) making elections for tax purposes.
- (3) For the purposes of subsections (1) and (2), a question as to the steps which it would have been reasonable for a person to take is to be determined on the basis of what the person might reasonably be expected to have done in the absence of the specified tax credit.
- (4) If—
 - (a) the specified tax credit has been allowed to a re-domiciled company; and
 - (b) subsequently, the amount of the specified tax credit becomes excessive as a result of an adjustment to the amount of the specified tax under the law of the place of incorporation of the company,

the company must give the Commissioner written notice of the adjustment within 3 months after the adjustment is made.

- (5) If, in relation to a re-domiciled company, the amount of the specified tax credit becomes excessive or insufficient by reason of an adjustment to the amount of the specified tax or the tax payable in Hong Kong, an assessment, additional assessment or claim to which the adjustment gives rise may be made before—
 - (a) the end of 2 years from the time when all assessments, adjustments and other determinations have been made, whether in the place of incorporation of the company or in Hong Kong, that are material in determining whether any, and if so what, relief is to be allowed; or
 - (b) the expiry of the time limit for making an assessment, additional assessment or claim for specified tax credit under this Ordinance,

whichever is the later.
- (6) In this section—
income (收入) includes profits.”.

154. Schedule 45 amended (deduction of R&D expenditures)

- (1) Schedule 45—
Repeal
“& 17J”
Substitute
“, 17J & 17L”.
- (2) Schedule 45, after section 7(2)—
Add

- “(3) This section applies, subject to section 5 of Schedule 17L, to a person that is a re-domiciled company.”.

Division 9—Banking Ordinance (Cap. 155)

155. Section 2 amended (interpretation)

- (1) Section 2(1)—

Repeal the definition of *authorized institution incorporated in Hong Kong*

Substitute

“*authorized institution incorporated in Hong Kong* (在香港成立為法團的認可機構) means—

- (a) an authorized institution incorporated in Hong Kong by or under—
 - (i) the Companies Ordinance (Cap. 622);
 - (ii) a former Companies Ordinance as defined by section 2(1) of the Companies Ordinance (Cap. 622); or
 - (iii) any other Ordinance; or
- (b) an authorized institution that is a re-domiciled entity, and a reference to a bank incorporated in Hong Kong, a deposit-taking company incorporated in Hong Kong or a restricted licence bank incorporated in Hong Kong is to be construed accordingly;”.

- (2) Section 2(1)—

Repeal the definition of *authorized institution incorporated outside Hong Kong*

Substitute

“*authorized institution incorporated outside Hong Kong* (在香港以外成立為法團的認可機構)—

- (a) means an authorized institution incorporated by or under the law or other authority in any place outside Hong Kong; but
- (b) does not include any such authorized institution that is a re-domiciled entity;”.

- (3) Section 2(1)—

Add in alphabetical order

“*re-domiciled company* (經遷冊公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);

re-domiciled entity (經遷冊實體) means a re-domiciled company that is deregistered as required by section 820E(3)(a) of the Companies Ordinance (Cap. 622);”.

- (4) Section 2(9), after “incorporated outside Hong Kong”—

Add

“that is not a re-domiciled entity”.

156. Section 20 amended (register of authorized institutions, etc.)

- (1) Section 20(1), English text—

Repeal

“shall” (wherever appearing)

Substitute

“must”.

- (2) Section 20(1)—

Repeal

“he”

Substitute

“the Monetary Authority”.

- (3) Section 20(1)(e), after “incorporated outside Hong Kong”—

Add

“that is not a re-domiciled entity”.

157. Part VIIA added

Before Part VIII—

Add

“Part VIIA

Approval for Re-domiciliation

43A. Interpretation of Part VIIA

In this Part—

AI holding company (認可機構控權公司) means a holding company of an authorized institution;

bank (銀行) has the meaning given by section 46(9);

Cap. 622 (《第 622 章》) means the Companies Ordinance (Cap. 622);

registration application (註冊申請) means an application for registration under section 820B(1) of Cap. 622;

responsible person (負責人)—

- (a) for a specified entity that is an authorized institution or an AI holding company—means a director, chief executive or manager of the specified entity; and
- (b) for a specified entity that is an approved money broker—means a director or manager of the specified entity;

specified entity (指明實體) means—

- (a) an authorized institution;

(b) an AI holding company; or

(c) an approved money broker.

43B. Prohibition against making registration application by bank

- (1) A bank must not make a registration application.
- (2) If a bank contravenes subsection (1), the bank commits an offence and is liable—
 - (a) on conviction on indictment—to a fine at tier 8; or
 - (b) on summary conviction—to a fine at tier 5.
- (3) If a bank contravenes subsection (1), whether or not the bank is charged with or convicted of the offence, every director, every chief executive and every manager of the bank also commits the offence and is liable—
 - (a) on conviction on indictment—to a fine at tier 7 and to imprisonment for 2 years; or
 - (b) on summary conviction—to a fine at tier 5 and to imprisonment for 6 months.

43C. Restriction on registration application by specified entity

- (1) A specified entity must not make a registration application without the Monetary Authority’s prior approval.
- (2) If a specified entity contravenes subsection (1), every responsible person for the entity commits an offence and is liable—
 - (a) on conviction on indictment—to a fine at tier 7 and to imprisonment for 2 years; or
 - (b) on summary conviction—to a fine at tier 5 and to imprisonment for 6 months.

43D. Application for Monetary Authority's approval for making registration application

- (1) An application for the Monetary Authority's approval for the purposes of section 43C(1)—
 - (a) must be in writing; and
 - (b) must be in the form specified by the Monetary Authority (if any).
- (2) The application must be accompanied by any document or information that the Monetary Authority specifies for the purpose of considering the application.
- (3) If a specified entity, in purported compliance with subsection (2), produces any document or information that is false in a material particular, every responsible person for the specified entity commits an offence and is liable—
 - (a) on conviction on indictment—to a fine at tier 7 and to imprisonment for 2 years; or
 - (b) on summary conviction—to a fine at tier 5 and to imprisonment for 6 months.

43E. Consideration of application made under section 43D

- (1) On receiving an application made under section 43D by a specified entity (*applicant*), the Monetary Authority may require the applicant to provide any further document or information that the Monetary Authority considers necessary for considering the application.
- (2) The Monetary Authority may, after considering the application—
 - (a) grant approval to the applicant to make a registration application; or
 - (b) refuse to grant an approval.

- (3) Once a decision is made under subsection (2), the Monetary Authority must notify in writing the applicant of the decision.
- (4) If the decision is to refuse to grant an approval under subsection (2), the Monetary Authority must also notify in writing the applicant of the reasons for the decision.
- (5) If the applicant, in purported compliance with subsection (1), produces any document or information that is false in a material particular, every responsible person for the applicant commits an offence and is liable—
 - (a) on conviction on indictment—to a fine at tier 7 and to imprisonment for 2 years; or
 - (b) on summary conviction—to a fine at tier 5 and to imprisonment for 6 months.

43F. Notice to be given to the Monetary Authority if specified entity becomes re-domiciled company

- (1) Subsection (2) applies if a specified entity becomes a re-domiciled company under section 820C of Cap. 622.
- (2) The specified entity must as soon as practicable after the certificate of re-domiciliation is issued to the entity under section 820C(5)(c) of Cap. 622 (*fact*)—
 - (a) notify in writing the Monetary Authority of the fact; and
 - (b) submit to the Monetary Authority a copy of the certificate.
- (3) If the specified entity contravenes subsection (2)(a) or (b), every responsible person for the specified entity commits an offence and is liable—
 - (a) on conviction on indictment—to a fine at tier 7 and to imprisonment for 2 years; or

- (b) on summary conviction—to a fine at tier 5 and to imprisonment for 6 months.
- (4) If the specified entity, in purported compliance with subsection (2)(a) or (b), produces any document or information that is false in a material particular, every responsible person for the specified entity commits an offence and is liable—
 - (a) on conviction on indictment—to a fine at tier 7 and to imprisonment for 2 years; or
 - (b) on summary conviction—to a fine at tier 5 and to imprisonment for 6 months.

43G. Notice to be given to the Monetary Authority if specified entity is deregistered in its place of incorporation

- (1) Subsection (2) applies if a specified entity is deregistered in its place of incorporation (as required by section 820E(3)(a) of Cap. 622).
- (2) The specified entity must as soon as practicable after the deregistration—
 - (a) notify in writing the Monetary Authority of the deregistration; and
 - (b) submit to the Monetary Authority a document evidencing the deregistration.
- (3) If the document mentioned in subsection (2)(b) is in a language other than the English language and the Chinese language, the document must be accompanied by a certified translation of the document in the English language or the Chinese language.
- (4) If the specified entity contravenes subsection (2)(a) or (b) or (3), every responsible person for the specified entity commits an offence and is liable—

- (a) on conviction on indictment—to a fine at tier 7 and to imprisonment for 2 years; or
- (b) on summary conviction—to a fine at tier 5 and to imprisonment for 6 months.
- (5) If the specified entity, in purported compliance with subsection (2)(a) or (b) or (3), produces any document or information that is false in a material particular, every responsible person for the specified entity commits an offence and is liable—
 - (a) on conviction on indictment—to a fine at tier 7 and to imprisonment for 2 years; or
 - (b) on summary conviction—to a fine at tier 5 and to imprisonment for 6 months.”.

158. Section 49 amended (control of establishment, etc. of overseas branches and overseas representative offices)

- (1) Section 49(1), English text—

Repeal

“which is”.
- (2) Section 49(1), English text—

Repeal

“shall be”

Substitute

“is”.
- (3) Section 49(1), English text—

Repeal

“shall not”

Substitute

“must not”.

159. Section 51A amended (control of establishment, etc. of overseas banking corporations)**(1) Section 51A(1)—****Repeal the definition of *overseas banking corporation*****Substitute*****“overseas banking corporation* (海外銀行法團)—****(a) means a company—****(i) that is incorporated outside Hong Kong, whether or not it is an authorized institution; and****(ii) that may, whether in or outside Hong Kong, lawfully take deposits from the general public, whether or not on current account; but****(b) does not include an authorized institution that is a re-domiciled entity;”.****(2) Section 51A(2)—****Repeal everything before the dash****Substitute****“(2) Each of the entities specified in subsection (2A) is subject to a condition that it must not”.****(3) After section 51A(2)—****Add****“(2A) The entities are—****(a) an authorized institution incorporated in Hong Kong; and****(b) a holding company of an institution mentioned in paragraph (a) that is incorporated in Hong Kong or is a re-domiciled entity.”.****160. Section 52 amended (powers of Monetary Authority)****(1) Section 52(2), English text—****Repeal****“shall not exercise the power conferred by subsection (1)(D) unless he”****Substitute****“must not exercise the power conferred under subsection (1)(D) unless the Monetary Authority”.****(2) Section 52(2)(a), after “institution is”—****Add****“an authorized institution”.****(3) Section 52(2)(a)(i)—****Repeal****“he thinks”****Substitute****“the Monetary Authority thinks”.****(4) Section 52(2)(a)(i)—****Repeal sub-subparagraphs (A) and (B)****Substitute****“(A) the Monetary Authority’s intention to exercise the power under subsection (1)(D); and****(B) the reasons for the exercise of the power; and”.****(5) Section 52(2)(a)(ii)—****Repeal****“he thinks fit, an opportunity to submit to him”****Substitute**

“the Monetary Authority thinks fit, an opportunity to submit to the Monetary Authority”.

- (6) Section 52(2)(a)(ii)—

Repeal

“shall form part of his report”

Substitute

“form part of the report of the Monetary Authority”.

- (7) Section 52(2)(b), after “institution is”—

Add

“an authorized institution”.

- (8) Section 52(2)(b)(i)—

Repeal sub-subparagraphs (A) and (B)

Substitute

“(A) the Monetary Authority’s intention to exercise the power under subsection (1)(D); and

(B) the reasons for the exercise of that power; and”.

- (9) Section 52(2)(b)(ii)—

Repeal

“him”

Substitute

“the Monetary Authority”.

- (10) Section 52(2)(b)(ii)—

Repeal

“shall form part of his report”

Substitute

“form part of the report of the Monetary Authority”.

- (11) Section 52(2)(c)(i)—

Repeal sub-subparagraphs (A) and (B)

Substitute

“(A) the Monetary Authority’s intention to exercise the power under subsection (1)(D); and

(B) the reasons for the exercise of that power; and”.

- (12) Section 52(2)(c)(ii)—

Repeal

“him”

Substitute

“the Monetary Authority”.

- (13) Section 52(2)(c)(ii)—

Repeal

“shall form part of his report”

Substitute

“form part of the report of the Monetary Authority”.

161. Section 53B amended (effect of direction under section 52(1)(C))

Section 53B(10)(b), after “institution is”—

Add

“an authorized institution”.

162. Section 53C amended (powers of Manager)

- (1) Section 53C(3)(a), English text, after “institution is”—

Add

“an authorized institution”.

- (2) Section 53C(3)(b), English text, after “institution is”—

Add

“an authorized institution”.

- (3) Section 53C(7)(b), after “institution is”—

Add

“an authorized institution”.

163. Section 53G amended (Advisors, Managers and assistants)

- (1) Section 53G(8), English text—

Repeal

“he shall”

Substitute

“the Monetary Authority must”.

- (2) Section 53G(8)(b)(ii), after “institution is”—

Add

“an authorized institution”.

- (3) Section 53G(8)(b)(iii), after “institution is”—

Add

“an authorized institution”.

- (4) Section 53G(8)(b)(iii), English text—

Repeal

“his”

Substitute

“such”.

164. Section 60AA added

After section 60—

Add**“60AA. Supplementary provisions for section 60—where authorized institution becomes a re-domiciled entity**

- (1) Subsection (2) applies if—

- (a) an authorized institution becomes a re-domiciled entity (*change*); and
- (b) immediately before the change, the institution is required, but has yet, to comply with the requirement under section 60(5) (*section 60(5) requirement*) in relation to a financial year.

- (2) Despite the change—

- (a) the institution is required to comply with the section 60(5) requirement in relation to the financial year;
- (b) section 60(5A), (6), (7) and (8) applies to the institution in relation to that financial year;
- (c) section 60(9) applies to a non-compliance with the section 60(5) requirement or section 60(7) (as applied by paragraph (b)) by the institution; and
- (d) section 60(10) applies to a non-compliance with section 60(8) (as applied by paragraph (b)) by the institution,

as if the change had not taken place.

- (3) Subsection (4) applies if—

- (a) there is a change (as described in subsection (1)) in relation to an authorized institution; and
- (b) immediately before the change, the institution—
 - (i) has complied with section 60(5) in relation to a financial year; but
 - (ii) has yet to comply with the requirement under section 60(7) (*section 60(7) requirement*) in relation to the financial year.

(4) Despite the change—

- (a) the institution is required to comply with the section 60(7) requirement in relation to the financial year; and
 - (b) section 60(9) applies to a non-compliance with the section 60(7) requirement,
- as if the change had not taken place.”

165. Section 63 amended (returns and information to be submitted to the Monetary Authority)

(1) Section 63(3A)—

Repeal

“to him, on or before such date as he may reasonably specify”

Substitute

“to the Monetary Authority, on or before the date the Monetary Authority reasonably specifies”.

(2) Section 63(3A)(a)(iii), after “institution is”—

Add

“an authorized institution”.

(3) Section 63(3A)(b)(ii), after “institution is”—

Add

“an authorized institution”.

166. Section 65 amended (alteration in constitution)

(1) Section 65(1)—

Repeal

“, within 30 days after the making of any alteration to the memorandum of association, articles of association or other instrument under which it is incorporated, shall”

Substitute

“must, within 30 days after the making of any alteration to a constitutional document or any document of the institution registered under section 820C(5)(a) and (b) of the Companies Ordinance (Cap. 622),”.

(2) After section 65(2)—

Add

“(3) In subsection (1)—

constitutional document (章程文件), in relation to an authorized institution, means the memorandum of association, articles of association or other instrument under which the authorized institution is incorporated.”.

167. Section 68 amended (examination by authorities outside Hong Kong)

(1) Section 68—

Renumber the section as section 68(1).

(2) After section 68(1)—

Add

“(2) A reference to a company in subsection (1)(a)(ii) and (b)(ii) does not include a re-domiciled entity.”.

168. Section 68H amended (holding company of authorized institution)

Section 68H(1)(a)—

Repeal

everything after “holding”

Substitute

“company—

- (i) is incorporated in Hong Kong by or under the Companies Ordinance (Cap. 622), a former Companies Ordinance as defined by section 2(1) of the Companies Ordinance (Cap. 622), or any other Ordinance; or
- (ii) is a re-domiciled entity; and”.

169. Section 71D substituted

Section 71D—

Repeal the section**Substitute****“71D. Appointment of executive officers**

- (1) Subject to section 71F—
 - (a) a registered institution incorporated in Hong Kong must appoint at least 2 executive officers, each of whom must be an individual, to be responsible for directly supervising the conduct of each business conducted by the institution that constitutes a regulated activity; and
 - (b) a registered institution incorporated outside Hong Kong must appoint at least 2 executive officers, each of whom must be an individual, to be responsible for directly supervising the conduct of each business in Hong Kong conducted by the institution that constitutes a regulated activity.
- (2) In subsection (1)—
 - (a) a reference to a registered institution incorporated in Hong Kong includes a registered institution that is a re-domiciled entity; and

- (b) a reference to a registered institution incorporated outside Hong Kong excludes a registered institution that is a re-domiciled entity.”.

170. Section 97 amended (restrictions on use of name “bank”)

- (1) After section 97(4)(a)—

Add

“(ab) is not a re-domiciled entity;”.

- (2) Section 97(4), English text—

Repeal

“shall prohibit”

Substitute

“prohibits”.

- (3) Section 97(4)(i), English text—

Repeal

“shall be”

Substitute

“must be”.

171. Section 132A amended (appeals)

- (1) Section 132A(1)(d), after “section”—

Add

“43E(2),”.

- (2) Section 132A(1), English text—

Repeal

“shall take”

Substitute

“takes”.

172. Seventh Schedule amended (minimum criteria for authorization)

- (1) Seventh Schedule, paragraph 1(4)—

Repeal

“himself as being satisfied in relation to any matter in respect of which he”

Substitute

“the Authority as being satisfied in relation to any matter in respect of which the Authority”.

- (2) Seventh Schedule, paragraph 1(4)(a), after “outside Hong Kong”—

Add

“that is not a re-domiciled entity”.

- (3) Seventh Schedule, paragraph 2, after “outside Hong Kong”—

Add

“but is not a re-domiciled entity”.

- (4) Seventh Schedule, paragraph 4, after “in Hong Kong”—

Add

“or is a re-domiciled entity”.

- (5) Seventh Schedule, English text, paragraph 4—

Repeal

“he”

Substitute

“that person”.

- (6) Seventh Schedule, paragraph 5, after “outside Hong Kong”—

Add

“but is not a re-domiciled entity”.

- (7) Seventh Schedule, English text, paragraph 5—

Repeal

“he”

Substitute

“that person”.

- (8) Seventh Schedule, paragraph 6(d)—

Repeal

“company incorporated in Hong Kong”

Substitute

“company that is incorporated in Hong Kong or is a re-domiciled entity”.

- (9) Seventh Schedule, paragraph 11, after “in Hong Kong”—

Add

“or is a re-domiciled entity”.

- (10) Seventh Schedule, paragraph 13, after “outside Hong Kong”—

Add

“but is not a re-domiciled entity”.

173. Eighth Schedule amended (grounds for revocation of authorization)

Eighth Schedule, after paragraph 21—

Add

“22. The authorized institution contravenes section 43C(1).”.

174. Ninth Schedule amended (powers of Manager of authorized institution)

- (1) Ninth Schedule, English text, paragraph 6(a), after “an”—

Add

“authorized”.

- (2) Ninth Schedule, English text, paragraph 6(b), after “an”—

Add

“authorized”.

175. Eleventh Schedule amended (minimum criteria for approval as money broker)

- (1) Eleventh Schedule, paragraph 1(4)—

Repeal

“himself as being satisfied in relation to any matter in respect of which he”

Substitute

“the Authority as being satisfied in relation to any matter in respect of which the Authority”.

- (2) Eleventh Schedule, paragraph 1(4)(a), after “outside Hong Kong”—

Add

“that is not a re-domiciled entity”.

- (3) Eleventh Schedule, paragraph 3, after “in Hong Kong”—

Add

“or is a re-domiciled entity”.

- (4) Eleventh Schedule, paragraph 4, after “outside Hong Kong”—

Add

“but is not a re-domiciled entity”.

- (5) Eleventh Schedule, English text, paragraph 4—

Repeal

“he”

Substitute

“that person”.

176. Twelfth Schedule amended (grounds for revocation of money broker)

Twelfth Schedule, after paragraph 8—

Add

“9. The approved money broker contravenes section 43C(1).”.

Division 10—Banking (Capital) Rules (Cap. 155 sub. leg. L)**177. Section 9 amended (circumstances in which Monetary Authority shall take into account assessment outside Hong Kong of rating system used by authorized institution)**

After section 9(1)—

Add

“(1A) In subsection (1)(a), a reference to a bank incorporated outside Hong Kong does not include a re-domiciled entity.”.

178. Section 33 amended (exceptions to section 27)

- (1) Section 33(1)(b)—

Repeal

“subsidiary of the institution which is a member of its consolidation group and is incorporated in a jurisdiction other than Hong Kong”

Substitute

“specified subsidiary”.

- (2) Section 33(1)(b)—

Repeal

“that jurisdiction”

Substitute

“the jurisdiction in which it is incorporated”.

- (3) Section 33(1)—

Repeal

“specified in the application”.

- (4) After section 33(6)—

Add

- “(7) In subsection (1)—

specified subsidiary (指明附屬公司), in relation to an authorized institution—

- (a) means a subsidiary of the institution that is a member of the institution’s consolidation group and is incorporated in a jurisdiction other than Hong Kong; but
- (b) does not include a subsidiary of the institution that is a re-domiciled entity.”.

179. Schedule 4B amended (qualifying criteria to be met to be Additional Tier 1 capital)

Schedule 4B, after section 3—

Add**“4. Interpretation of certain expressions in section 1(q)(v) and (vi)**

- (1) In section 1(q)(v), a reference to an overseas subsidiary of an authorized institution does not include a subsidiary of the institution that is a re-domiciled entity.
- (2) In section 1(q)(vi), a reference to a Hong Kong subsidiary of an overseas banking group includes a subsidiary of the banking group that is a re-domiciled entity.”.

180. Schedule 4C amended (qualifying criteria to be met to be Tier 2 capital)

Schedule 4C, after section 3—

Add**“4. Interpretation of certain expressions in section 1(k)(v) and (vi)**

- (1) In section 1(k)(v), a reference to an overseas subsidiary of an authorized institution does not include a subsidiary of the institution that is a re-domiciled entity.
- (2) In section 1(k)(vi), a reference to a Hong Kong subsidiary of an overseas banking group includes a subsidiary of the banking group that is a re-domiciled entity.”.

181. Schedule 4D amended (requirements to be met for minority interests and capital instruments issued by consolidated bank subsidiaries and held by third parties to be included in authorized institution’s capital base)

- (1) Schedule 4D, section 3(1A), after “Hong Kong”—

Add

“or is a re-domiciled entity”.

- (2) Schedule 4D, section 3(1B), after “Hong Kong”—

Add

“and is not a re-domiciled entity”.

- (3) Schedule 4D, section 4(1A), after “Hong Kong”—

Add

“or is a re-domiciled entity”.

- (4) Schedule 4D, section 4(1B), after “Hong Kong”—

Add

“and is not a re-domiciled entity”.

- (5) Schedule 4D, section 5(1A), after “Hong Kong”—

Add

“or is a re-domiciled entity”.

- (6) Schedule 4D, section 5(1B), after “Hong Kong”—

Add

“and is not a re-domiciled entity”.

Division 11—Banking (Liquidity) Rules (Cap. 155 sub. leg.

Q)

182. Rule 2 amended (interpretation)

After rule 2(9)—

Add

- “(10) Except for section 2(a) of Part 3 of Schedule 1 and sections 5(1)(c), 6(1)(c) and 7(1)(c) of Part 3 of Schedule 2 to which section 2(9) of the Ordinance applies, a reference in a provision of these Rules to the relevant banking supervisory authority in a country (including a host country) or a place means the banking supervisory authority in that country or place that may impose the

requirements, or determine or specify the matter, referred to in the provision concerned.”.

183. Rule 2AA added

After rule 2—

Add

“2AA. Supplementary provisions regarding re-domiciled entities

In these Rules—

- (a) a reference to a category 1 institution incorporated in Hong Kong includes a category 1 institution that is a re-domiciled entity;
- (b) a reference to a category 2 institution incorporated in Hong Kong includes a category 2 institution that is a re-domiciled entity; and
- (c) a reference to a category 2A institution incorporated in Hong Kong includes a category 2A institution that is a re-domiciled entity.”.

184. Rule 10 amended (calculation of LCR, LMR, NSFR or CFR on Hong Kong office basis and unconsolidated basis, etc.)

Rule 10(1)(b), after “institution is”—

Add

“an authorized institution”.

185. Rule 12 amended (calculation of LCR, LMR, NSFR or CFR of authorized institution incorporated in Hong Kong on basis other than those under rules 10 and 11)

Rule 12(1)—

Repeal

“Where an authorized institution is incorporated”

Substitute

“For an authorized institution incorporated”.

186. Rule 22 amended (calculation of LCR on unconsolidated or consolidated basis, etc. when there are different liquidity requirements between Hong Kong and host countries)

- (1) Rule 22(6), definition of *deposits and funding*—

Repeal the full stop

Substitute a semicolon.

- (2) Rule 22(6)—

Add in alphabetical order

“*specified associated entity* (指明聯繫實體)—

- (a) has the meaning given by rule 2(1); but
- (b) does not include a re-domiciled entity.”.

187. Rule 28 amended (HQLA must have diversification of classes of assets, etc.)

- (1) Rule 28(2)(d), English text—

Repeal

“the country”

Substitute

“a country”.

- (2) Rule 28(2)(e)—

Repeal

“any country”

Substitute

“a country”.

- (3) After rule 28(2)—

Add

- “(3) To avoid doubt, in relation to a category 1 institution incorporated in a place that is part of a country (*Country A*)—

- (a) a reference in subsection (2)(d) to “the sovereign or central bank of a country in which the institution is incorporated” includes the sovereign or central bank of Country A; and
- (b) a reference in subsection (2)(e) to “the sovereign or central bank of a country in which the institution operates” includes the sovereign or central bank of Country A.

- (4) For the purposes of this rule, a category 1 institution that is a re-domiciled entity is to be regarded as being incorporated in Hong Kong.”.

188. Rule 64 amended (calculation of NSFR on unconsolidated or consolidated basis, etc. when there are different liquidity requirements between Hong Kong and host countries)

- (1) Rule 64(6), definition of *deposits and funding*—

Repeal the full stop

Substitute a semicolon.

- (2) Rule 64(6)—

Add in alphabetical order

“*specified associated entity* (指明聯繫實體)—

- (a) has the meaning given by rule 2(1); but
- (b) does not include a re-domiciled entity.”.

189. Schedule 1 amended (grounds for designating authorized institution as category 1 institution and exceptions to those grounds)

Schedule 1—

Repeal

“[rr. 3”

Substitute

“[rr. 2, 3”.

190. Schedule 2 amended (classes of assets which may be included in HQLA for calculating LCR and qualifying criteria applicable to those classes)

(1) Schedule 2, Part 1, after section 1(2)—

Add

“(3) For the purposes of sections 2 and 3 of Part 3 of this Schedule, a category 1 institution that is a re-domiciled entity is to be regarded as being incorporated in Hong Kong.”.

(2) Schedule 2, Part 3, section 2—

Repeal subsection (1)

Substitute

“(1) A marketable debt security does not fall within section 1(d) of Part 2 of this Schedule, unless it is issued by—

- (a) the sovereign or central bank of the country in which the category 1 institution holding the debt security is incorporated; or
- (b) the sovereign or central bank of the country in which that institution carries on a banking business through a branch or subsidiary.”.

(3) Schedule 2, Part 3, after section 2(1)—

Add

“(1A) To avoid doubt—

- (a) in relation to a category 1 institution incorporated in a place that is part of a country (*Country B*), the reference in subsection (1)(a) to “the sovereign or central bank of the country in which the category 1 institution holding the debt security is incorporated” includes the sovereign or central bank of Country B; and
- (b) in relation to a category 1 institution that carries on, in a place that is part of Country B, a banking business through a branch or subsidiary, the reference in subsection (1)(b) to “the sovereign or central bank of the country in which that institution carries on a banking business through a branch or subsidiary” includes the sovereign or central bank of Country B.”.

(4) Schedule 2, Part 3, section 3(1)—

Repeal paragraph (a)

Substitute

“(a) it is issued by—

- (i) the sovereign or central bank of the country in which the category 1 institution holding the debt security is incorporated; or
- (ii) the sovereign or central bank of the country in which that institution carries on a banking business through a branch or subsidiary; and”.

(5) Schedule 2, Part 3, after section 3(1)—

Add

“(1A) To avoid doubt—

- (a) in relation to a category 1 institution incorporated in a place that is part of a country (*Country C*), the reference in subsection (1)(a)(i) to “the sovereign or central bank of the country in which the category 1 institution holding the debt security is incorporated” includes the sovereign or central bank of Country C; and
- (b) in relation to a category 1 institution that carries on, in a place that is part of Country C, a banking business through a branch or subsidiary, the reference in subsection (1)(a)(ii) to “the sovereign or central bank of the country in which that institution carries on a banking business through a branch or subsidiary” includes the sovereign or central bank of Country C.”.

- (6) Schedule 2, Part 3, section 5(1)(c), after “outside Hong Kong”—

Add

“and is not a re-domiciled entity”.

- (7) Schedule 2, Part 3, section 6(1)(c), after “outside Hong Kong”—

Add

“and is not a re-domiciled entity”.

- (8) Schedule 2, Part 3, section 7(1)(c), after “outside Hong Kong”—

Add

“and is not a re-domiciled entity”.

- (9) Schedule 2, Part 3, section 10(1)(c)(ii)(A)—

Repeal

“or carries”

Substitute

“and is not a re-domiciled entity, or the category 1 institution carries”.

- (10) Schedule 2, Part 3, section 10(1)(d)—

Repeal

everything after “denominated”

Substitute

“—

- (i) (if the category 1 institution is not a re-domiciled entity) in Hong Kong dollars or in the local currency of the country in which the institution holding the share is incorporated or carries on a banking business through a branch or subsidiary; or
- (ii) (if the category 1 institution is a re-domiciled entity) in Hong Kong dollars or in the local currency of the country in which the institution holding the share carries on a banking business through a branch or subsidiary;”.

Division 12—Banking (Exposure Limits) Rules (Cap. 155 sub. leg. S)

191. Rule 6 amended (Monetary Authority may require applying these Rules on unconsolidated or consolidated basis)

- (1) Rule 6(2)(a)(i), after “institution is”—

Add

“an authorized institution”.

- (2) Rule 6(2)(a)(ii), after “institution is”—

Add

“an authorized institution”.

192. Rule 48 amended (exposure disregarded)

Rule 48(1)(a)—

Repeal subparagraph (iii)**Substitute**

“(iii) if the holding company is incorporated in a place outside Hong Kong and is not a re-domiciled entity—the standards of accounting practices applicable to the holding company in that place;”.

Division 13—Business Registration Ordinance (Cap. 310)**193. Section 2 amended (interpretation and application)**

- (1) Section 2(1), definition of *non-Hong Kong company*, after “Hong Kong”—

Add

“but does not include a re-domiciled company”.

- (2) Section 2(1), definition of *place of business*, after paragraph (a)—

Add

“(aa) a re-domiciled company, its registered office;”.

- (3) Section 2(1)—

Repeal the definition of *re-domiciliation form***Substitute**

“*re-domiciliation form* (遷冊表格) means—

- (a) the re-domiciliation form referred to in section 112ZJC(1)(a) of the Securities and Futures Ordinance (Cap. 571); or

- (b) the re-domiciliation form referred to in section 820B(2)(a) of the Companies Ordinance (Cap. 622);”.

- (4) Section 2(1), definition of *simultaneous business registration application*—

Repeal

“or 5BA(2)”

Substitute

“, 5BA(2) or 5BB(4)”.

- (5) Section 2(1)—

Add in alphabetical order

“*re-domiciled company* (經遷冊公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);

re-domiciliation application (遷冊申請) means an application made under section 820B of the Companies Ordinance (Cap. 622);

re-domiciliation date (遷冊日) has the meaning given by section 820A of the Companies Ordinance (Cap. 622);”.

- (6) After section 2(1A)(a)—

Add

“(aa) a re-domiciled company that is not otherwise liable to be registered under this Ordinance;”.

- (7) Section 2(1A), English text—

Repeal

“shall,”

Substitute

“is,”.

- (8) Section 2(1A), English text—

Repeal

“, be”

Substitute a comma.

- (9) Section 2(1A), English text—

Repeal

“shall be”

Substitute

“is”.

- (10) After section 2(1C)(a)—

Add

“(ab) a person who makes a re-domiciliation application;”.

194. Section 4 amended (official secrecy)

Section 4(3B)—

Repeal

“company registration application”

Substitute

“re-domiciliation application, company registration application”.

195. Section 5BB added

After section 5BA—

Add**“5BB. Simultaneous business registration applications of re-domiciled companies**

- (1) At the time a re-domiciliation application is made, the person who makes the application (*applicant*) must—
 - (a) pay to the Commissioner the prescribed business registration fee and levy; and
 - (b) deliver to the Commissioner a notice in a form specified under section 5D(1).
- (2) The applicant must indicate in the notice whether the applicant intends to make an election under section 6(5C)(c).
- (3) Subsections (1) and (2) do not apply in relation to a re-domiciliation application if—
 - (a) the business carried on by the applicant is registered, or deemed to have been registered, under section 6 (*matter*); and
 - (b) the applicant has, at the time of making the re-domiciliation application, delivered to the Commissioner a notice in a form specified under section 5D(1), informing the Commissioner of the matter.
- (4) If subsections (1) and (2) are complied with in relation to a re-domiciliation application, the applicant is deemed to have made a business registration application.”.

196. Section 5C amended (Registrar to perform certain functions in relation to simultaneous business registration applications)

- (1) Section 5C(1)(a)—

Repeal

“and 5BA(1)(a)”

Substitute

“, 5BA(1)(a) and 5BB(1)(a)”.

- (2) Section 5C(1)(a)—

Repeal

“or (5)”

Substitute

“, (5) or (6)”.

- (3) Section 5C(1)(b)—

Repeal

“and 5BA(1)(b) and (4)”

Substitute

“, 5BA(1)(b) and (4) and 5BB(1)(b) and (3)(b)”.

- (4) Section 5C(5)(a)—

Repeal

“and 5BA(1)(b) and (4)”

Substitute

“, 5BA(1)(b) and (4) and 5BB(1)(b) and (3)(b)”.

197. Section 5D amended (notices in specified form)

- (1) Section 5D(1)—

Repeal

“or 5BA(1)(b) or (4)”

Substitute

“, 5BA(1)(b) or (4) or 5BB(1)(b) or (3)(b)”.

- (2) Section 5D(2)—

Repeal

“or 5BA(1)(b) or (4)”

Substitute

“, 5BA(1)(b) or (4) or 5BB(1)(b) or (3)(b)”.

198. Section 6 amended (registration of business and issue of business registration certificate)

- (1) Section 6(4D)(b)—

Repeal

“or (1B)”

Substitute

“, (1B), (1D)(b) or (1F)(b)”.

- (2) Section 6(4D)(b)—

Repeal

“8 (1A)(a)”

Substitute

“8(1A)(a) or (1D)(a)”.

199. Section 7A amended (refund of prescribed business registration fees, prescribed branch registration fees or levies)

- (1) After section 7A(3)(a)—

Add

“(aa) a re-domiciled company;”.

- (2) After section 7A(5)—

Add

“(6) If the Registrar refuses to register a company incorporated outside Hong Kong under section 820C(1) of the Companies Ordinance (Cap. 622), the Commissioner must as soon as practicable refund to the body corporate the prescribed business registration fee and levy paid under section 5BB(1)(a).”.

200. Section 8 amended (information to be furnished)

After section 8(1C)—

Add

“(1D) In respect of a simultaneous business registration application relating to a re-domiciliation application—

- (a) the relevant company must, within 1 month beginning on the date on which the company commences to carry on the business in Hong Kong, submit to the Commissioner in writing the particulars prescribed in regulations made under section 14; and
- (b) if there is any change in those particulars of the company, the company must, within 1 month beginning on the date on which the change takes place, notify in writing the Commissioner of the change.

(1E) Subsection (1D) does not apply in relation to a re-domiciliation application to which section 5BB(3) applies.

(1F) If section 5BB(3) applies and the relevant company becomes a re-domiciled company—

- (a) the company must, within 1 month beginning on the re-domiciliation date, submit to the Commissioner in writing the particulars prescribed in regulations made under section 14; and
- (b) if—
 - (i) there is any change in the particulars submitted by the company under section 5(1) or 5B(1)(b)(i) or subsection (1) or (1B)(a) before the re-domiciliation date; and

- (ii) the Commissioner has not been notified of the change before that date,
the company must, within 1 month beginning on the date on which the change takes place, notify in writing the Commissioner of the change.”.

201. Section 9 amended (exemption from payments of fees for small businesses)

(1) Section 9(6), English text—

Repeal

“shall not”

Substitute

“does not”.

(2) After section 9(6)(a)—

Add

“(aa) a re-domiciled company;”.

202. Section 16 amended (exemptions)

(1) Section 16(1), English text—

Repeal

“Ordinance shall not”

Substitute

“Ordinance do not”.

(2) Section 16(1)(c), English text, proviso—

Repeal

“shall not”

Substitute

“does not”.

- (3) Section 16(1)(c), proviso, after paragraph (a)—

Add

“(ab) any re-domiciled company;”.

- (4) Section 16(2)—

Repeal

“or 5BA(1)(a)”

Substitute

“, 5BA(1)(a) or 5BB(1)(a)”.

203. Schedule 1 amended

- (1) Schedule 1, section 1, after “5BA”—

Add

“, 5BB”.

- (2) Schedule 1, Chinese text, section 2(a)(i)(A) and (B) and (ii)(A) and (b)(ii)(A), after the semicolon—

Add

“或”.

- (3) Schedule 1, section 2(b)(ii)(B)—

Repeal

“or”.

- (4) Schedule 1, section 2(b)(iii)—

Repeal

“made;”

Substitute

“made; or”.

- (5) Schedule 1, after section 2(b)(iii)—

Add

- “(iv) in the case of a fee payable under section 5BB(1)(a), the date on which the related re-domiciliation application is made;”.

204. Schedule 2 amended

- (1) Schedule 2, section 1, after “5BA”—

Add

“, 5BB”.

- (2) Schedule 2, Chinese text, section 2(a)(i), after the semicolon—

Add

“或”.

- (3) Schedule 2, Chinese text, section 3(a)(i)(A) and (B) and (ii)(A) and (b)(ii)(A), after the semicolon—

Add

“或”.

- (4) Schedule 2, section 3(b)(ii)(B)—

Repeal

“or”.

- (5) Schedule 2, section 3(b)(iii)—

Repeal

“made;”

Substitute

“made; or”.

- (6) Schedule 2, after section 3(b)(iii)—

Add

- “(iv) in the case of a levy payable under section 5BB(1)(a), the date on which the related re-domiciliation application is made;”.

- (7) Schedule 2, Chinese text, section 4(a)(i), after the semicolon—

Add

“或”.

Division 14—Business Registration Regulations (Cap. 310 sub. leg. A)

205. Regulation 3A amended (business particulars in relation to simultaneous business registration applications)

- (1) Regulation 3A(2)—

Repeal

“8(1A)(a)”

Substitute

“8(1A)(a) or (1D)(a)”.

- (2) After regulation 3A(3)(a)—

Add

“(aa) in the case of a re-domiciled company—

- (i) the name of the company;
- (ii) the address of the registered office of the company;
- (iii) the re-domiciliation date;”.

206. Regulation 3B added

After regulation 3A—

Add

“3B. Business particulars in relation to re-domiciled company already registered under Ordinance before re- domiciliation date

The particulars to be submitted under section 8(1F)(a) of the Ordinance are as follows—

- (a) the name in which the re-domiciled company is registered under the Companies Ordinance (Cap. 622);
- (b) the address of the registered office of the company; and
- (c) the re-domiciliation date.”.

207. Regulation 4 amended (the register)

- (1) After regulation 4(1C)—

Add

“(1D) If section 5BB(1), (2) and (4) of the Ordinance applies, as soon as practicable after receipt by the Registrar of a re-domiciliation application, the Commissioner must assign an identifying number to the related simultaneous business registration application.”.

- (2) Regulation 4(2)(b)—

Repeal

“or (1C)”

Substitute

“, (1C) or (1D)”.

- (3) Regulation 4(4A)—

Repeal

“or (1C)”

Substitute

“, (1C) or (1D)”.

208. Regulation 9 amended (forms)

Regulation 9, Form 4, paragraph (a)—

Repeal

“or company registration application”

Substitute

“, company registration application, re-domiciliation application or LPF registration application”.

**Division 15—The Hong Kong Association of Banks
Ordinance (Cap. 364)**

209. Section 2 amended (interpretation)

Section 2—

Add in alphabetical order

“*re-domiciled entity* (經遷冊實體) has the meaning given by section 2(1) of the Banking Ordinance (Cap. 155);”.

210. Section 8 amended (Committee)

(1) Section 8(1), English text—

Repeal

“shall be a Committee of the Association which shall comprise”

Substitute

“is to be a Committee of the Association that comprises”.

(2) Section 8(1)—

Repeal paragraph (b)

Substitute

“(b) 9 elected members who are elected in accordance with the bylaws of the Association, and who are, and are to be elected by—

(i) as to 4 members—members whose place of incorporation is Hong Kong or who are re-domiciled entities; and

(ii) as to 5 members—members whose place of incorporation is outside Hong Kong and who are not re-domiciled entities.”.

(3) After section 8(1)—

Add

“(1A) Any elected member ceases to be a member of the Committee on becoming a re-domiciled entity.

(1B) A vacancy arising under subsection (1A) is to be filled by an election in accordance with the bylaws of the Association.”.

211. Section 9 amended (Consultative Council)

(1) After section 9(1)—

Add

“(1A) For the purposes of subsection (1)(b), if a member is a re-domiciled entity, its appropriate region is Hong Kong.”.

(2) After section 9(2)—

Add

“(2A) Any elected member of the Consultative Council ceases to be a member of the Consultative Council on becoming a re-domiciled entity.

(2B) A vacancy arising under subsection (2A) is to be filled by an election in accordance with the bylaws of the Association.”.

212. Section 16 amended (Disciplinary Committee)

(1) Section 16—

Renumber the section as section 16(1).

(2) Section 16(1), English text—

Repeal

“shall”

Substitute

“must”.

(3) Section 16(1)(a)(ii), after “Hong Kong”—

Add

“or who is a re-domiciled entity”.

(4) Section 16(1)(a)(iii), after “Hong Kong”—

Add

“and who is not a re-domiciled entity”.

(5) After section 16(1)—

Add

“(2) A member of the Disciplinary Committee appointed under subsection (1)(a)(iii) ceases to be a member of the Disciplinary Committee on becoming a re-domiciled entity.

(3) If a vacancy arises under subsection (2), the Committee must—

- (a) appoint another member to fill the vacancy as soon as practicable; and
- (b) if the outgoing member was designated as the chairman under subsection (1)(b)—designate another member as chairman as soon as an appointment under paragraph (a) is made.”.

**Division 16—The Hong Kong Association of Banks By-laws
(Cap. 364 sub. leg. A)**

213. By-law 2 amended (nomination of elected members of the Committee)

(1) By-law 2(2)—

Repeal

“shall be nominated by 5 other members whose place of incorporation is Hong Kong”

Substitute

“must be nominated by 5 other members each of which is either incorporated in Hong Kong or is a re-domiciled entity”.

(2) By-law 2(3)—

Repeal

“shall be nominated by 5 other members whose place of incorporation is outside Hong Kong”

Substitute

“must be nominated by 5 other members that are incorporated outside Hong Kong and are not re-domiciled entities”.

(3) After by-law 2(3)—

Add

“(3A) However, a member ceases to be a candidate for election to the Committee if, after the nomination, any member who made the nomination becomes a re-domiciled entity.

(3B) Nothing in paragraph (3A) prevents a member who has ceased to be a candidate by reason of that paragraph from being nominated again in accordance with these by-laws.”.

214. By-law 16 amended (record of members eligible to be elected members of Consultative Council)

- (1) By-law 16(1)(a), after “incorporation”—

Add

“and domicile”.

- (2) After by-law 16(1)—

Add

“(1A) For the purposes of paragraph (1)(b), if a member is a re-domiciled entity, its appropriate region is Hong Kong.”.

- (3) By-law 16(3)—

Repeal

“or principal place of business, any member affected by such amendment or to which the change relates shall forthwith”

Substitute

“, place of domicile or principal place of business, a member affected by the amendment or to which the change relates must immediately”.

215. By-law 17 amended (nomination of elected members of the Consultative Council)

After by-law 17(3)—

Add

“(3A) However, a member ceases to be a candidate for election to the Consultative Council if—

- (a) after proposing the member, the proposer is no longer from the same region as the member; or
- (b) after seconding the member, the seconder is no longer from the same region as the member.

- (3B) Nothing in paragraph (3A) prevents a member who has ceased to be a candidate by reason of that paragraph from being nominated again in accordance with these by-laws.”.

Division 17—Control of Obscene and Indecent Articles Ordinance (Cap. 390)**216. Section 2 amended (interpretation)**

- (1) Section 2(1), English text, definition of
- place of business*
-

Repeal

“includes in relation to”.

- (2) Section 2(1), definition of
- place of business*
-

Repeal paragraph (a)**Substitute**

“(a) in relation to any of the following companies, includes its registered office—

- (i) a company incorporated in Hong Kong under the Companies Ordinance (Cap. 622) (*Cap. 622*);
- (ii) a company incorporated in Hong Kong under a former Companies Ordinance as defined by section 2(1) of Cap. 622;
- (iii) a re-domiciled company as defined by section 2(1) of Cap. 622; and”.

- (3) Section 2(1), English text, definition of
- place of business*
- , paragraph (b), before “a registered”—

Add

“in relation to”.

- (4) Section 2(1), definition of
- place of business*
- , paragraph (b)—

Repeal

“the Companies Ordinance (Cap. 622),”

Substitute

“Cap. 622, includes”.

- (5) Section 2(1), definition of *place of business*, paragraph (b)—

Repeal

“the Companies Ordinance (Cap. 622);”

Substitute

“Cap. 622;”.

Division 18—Merchant Shipping (Registration) Ordinance (Cap. 415)

217. Section 2 amended (interpretation)

Section 2(1)—

Add in alphabetical order

“*re-domiciled company* (經遷冊公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);

registered non-Hong Kong company (註冊非香港公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);”.

218. Section 11 amended (registrable ships)

- (1) Section 11(4)(b)—

Repeal

“and”.

- (2) After section 11(4)(b)—

Add

“(ba) a re-domiciled company; and”.

- (3) Section 11(4)(c)—

Repeal

“as defined by section 2(1) of the Companies Ordinance (Cap. 622)”.

219. Section 20 amended (declarations by and on behalf of owners and demise charterers)

- (1) Section 20(1), English text—

Repeal

“shall not be”

Substitute

“is not”.

- (2) Section 20(1), English text—

Repeal

“until he”

Substitute

“until the person”.

- (3) Section 20(1), English text—

Repeal

“which shall include”

Substitute

“that includes”.

- (4) Section 20(1)(b)—

Repeal

“he”

Substitute

“the individual”.

(5) Section 20(1)—

Repeal paragraph (c)

Substitute

“(c) in the case of a body corporate purporting to be a qualified person, a statement of any of the following circumstances applicable to the body corporate—

- (i) its incorporation in Hong Kong;
- (ii) its registration under Part XI of the Companies Ordinance (Cap. 32) as in force from time to time before 3 March 2014;
- (iii) (for a body corporate other than a re-domiciled company) its registration under Part 16 of the Companies Ordinance (Cap. 622) (*Cap. 622*);
- (iv) (for a re-domiciled company) its registration under section 820C(1) of Cap. 622;”.

(6) Section 20(1)(d), Chinese text, after “成立”—

Add

“為法團”.

(7) Section 20(2), English text—

Repeal

“shall not be”

Substitute

“is not”.

(8) Section 20(2), English text—

Repeal

“which shall include”

Substitute

“that includes”.

(9) Section 20(2)—

Repeal paragraph (b)

Substitute

“(b) a statement of any of the following circumstances applicable to the body corporate—

- (i) its incorporation in Hong Kong;
- (ii) its registration under Part XI of the Companies Ordinance (Cap. 32) as in force from time to time before 3 March 2014;
- (iii) (for a body corporate other than a re-domiciled company) its registration under Part 16 of Cap. 622;
- (iv) (for a re-domiciled company) its registration under section 820C(1) of Cap. 622;”.

220. Section 21 amended (evidence on first registration)

(1) Section 21(1), English text—

Repeal

“shall”

Substitute

“is to”.

(2) Section 21(1)—

Repeal paragraph (b)

Substitute

“(b) in relation to each qualified person applying to be registered as owner, any of the following documents issued in respect of that person—

- (i) a valid identity card;

- (ii) a certificate of incorporation in Hong Kong;
 - (iii) a certificate of registration issued under Part XI of the Companies Ordinance (Cap. 32) as in force from time to time before 3 March 2014;
 - (iv) (if the person is a body corporate other than a re-domiciled company) a certificate of registration issued under Part 16 of the Companies Ordinance (Cap. 622) (*Cap. 622*);
 - (v) (if the person is a re-domiciled company) a certificate of re-domiciliation issued under section 820C(5)(c) of Cap. 622; and”.
- (3) Section 21(3), English text—
Repeal
 “shall”
Substitute
 “is to”.
- (4) Section 21(3)(b), Chinese text—
Repeal
 “的成立”
Substitute
 “成立為法團”.
- (5) Section 21(3)—
Repeal paragraph (c)
Substitute
 “(c) in relation to a body corporate that is a qualified person and that is applying to be registered as a demise charterer, one of the following documents issued in respect of that body corporate—

- (i) a certificate of incorporation in Hong Kong;
 - (ii) a certificate of registration issued under Part XI of the Companies Ordinance (Cap. 32) as in force from time to time before 3 March 2014;
 - (iii) (for a body corporate other than a re-domiciled company) a certificate of registration issued under Part 16 of Cap. 622;
 - (iv) (for a re-domiciled company) a certificate of re-domiciliation issued under section 820C(5)(c) of Cap. 622; and”.
- 221. Section 44 amended (mortgage of ship)**
 Section 44(2)(b)(ii), Chinese text, after “成立”—
Add
 “為法團”.
- 222. Section 48 amended (transfer of mortgage)**
 Section 48(1)(b), Chinese text, after “成立”—
Add
 “為法團”.
- 223. Section 49 amended (transmission of mortgage by operation of law)**
 Section 49(1)(c), Chinese text, after “成立”—
Add
 “為法團”.
- 224. Section 55 amended (notice of dissolution, etc. of body corporate owner or charterer)**
 (1) Section 55(1)(b)(i)—

Repeal

“or”.

- (2) After section 55(1)(b)(i)—

Add

“(ia) is a re-domiciled company; or”.

- (3) Section 55(1)(b)(ii)—

Repeal

“as defined by section 2(1) of the Companies Ordinance (Cap. 622)”.

- (4) Section 55(1), English text—

Repeal

“shall”

Substitute

“must”.

- (5) Section 55(1)—

Repeal

“as defined by section 2(1) of the Companies Ordinance (Cap. 622)”

Substitute

“or a re-domiciled company”.

- (6) Section 55(1), English text—

Repeal

“the occurrence thereof”

Substitute

“the cessation”.

225. Section 68 amended (representative person)

- (1) Section 68(2), English text—

Repeal

“shall”

Substitute

“must”.

- (2) Section 68(2)(b)—

Repeal

“Hong Kong”

Substitute

“Hong Kong, or is a re-domiciled company,”.

**Division 19—Occupational Retirement Schemes Ordinance
(Cap. 426)****226. Section 22 amended (certain changes to be notified)**

- (1) Section 22—

Repeal subsection (2)**Substitute**

“(2) The designated person of a registered scheme—

- (a) must, within 1 month of any change of the following information previously supplied to the Registrar, notify the Registrar—
 - (i) the name or address of the designated person;
 - (ii) the name or address of the administrator of the scheme; and

- (b) if the designated person or administrator of the scheme is a body corporate, must within the specified period, notify the Registrar—
 - (i) if its domicile is changed to Hong Kong so that it becomes a company registered under section 820C(1) of the Companies Ordinance (Cap. 622) (*Cap. 622*)—such change in domicile; or
 - (ii) if its domicile is changed to a place other than Hong Kong—such change in domicile and its latest place of domicile.”.

(2) After section 22(3)—

Add

“(4) In subsection (2)(b)—
specified period (指明期間)—

- (a) in relation to a change in domicile to Hong Kong—means 1 month after the designated person or administrator of the registered scheme is deregistered as required by section 820E(3)(a) of Cap. 622; or
- (b) in relation to a change in domicile to a place other than Hong Kong—means 1 month after the completion of the change.”.

**Division 20—Occupational Retirement Schemes (Fees)
Rules (Cap. 426 sub. leg. D)**

227. Schedule amended (fees)

The Schedule, item 11—

Repeal

“or address”

Substitute

“, address or domicile”.

Division 21—Occupational Retirement Schemes (Notices of Changes) Rules (Cap. 426 sub. leg. J)

228. Section 7 amended (notice of change of name or address of the administrator or designated person of a registered scheme)

(1) Section 7, heading—

Repeal

“or address”

Substitute

“, address or domicile”.

(2) Section 7(2), English text—

Repeal

“shall”

Substitute

“must”.

(3) Section 7(2)(d)—

Repeal

“and”.

(4) Section 7(2)(e)—

Repeal

“name.”

Substitute

“name; and”.

(5) After section 7(2)(e)—

Add

- “(f) where the notice is in respect of a change in domicile, be accompanied by a copy of the certificate of re-domiciliation (as defined by section 2(1) of the Companies Ordinance (Cap. 622)) or a copy of any other certificate or document evidencing the change in domicile.”.

**Division 22—Mandatory Provident Fund Schemes
Ordinance (Cap. 485)**

229. Section 2 amended (interpretation)

- (1) Section 2(1)—

Repeal the definition of *corporation*.

- (2) Section 2(1)—

Add in alphabetical order

“*corporation* (法團)—

- (a) means a body corporate that is incorporated in a place outside Hong Kong; but
(b) does not include—
(i) a non-Hong Kong company; or
(ii) a re-domiciled company;

***re-domiciled company* (經遷冊公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);”.**

**Division 23—Mandatory Provident Fund Schemes
(General) Regulation (Cap. 485 sub. leg. A)**

230. Section 2 amended (interpretation)

Section 2—

Add in alphabetical order

“*re-domiciled entity* (經遷冊實體) has the meaning given by section 2(1) of the Banking Ordinance (Cap. 155);”.

231. Section 4 amended (what is an approved overseas insurer for the purposes of this Regulation)

Section 4, after “incorporated outside Hong Kong”—

Add

“that is not a re-domiciled insurer (as defined by section 2(1) of the Insurance Ordinance (Cap. 41))”.

232. Section 5 amended (what is an approved overseas trust company for the purposes of this Regulation)

Section 5, after “incorporated outside Hong Kong”—

Add

“that is not a re-domiciled company”.

233. Section 16 amended (eligibility requirements for company incorporated in Hong Kong)

- (1) Section 16, heading, after “**Hong Kong**”—

Add

“and re-domiciled company”.

- (2) Section 16(1), after “**Hong Kong**”—

Add

“or a re-domiciled company”.

234. Section 44 amended (approved trustee to appoint investment manager)

Section 44(3)(a), after “**Hong Kong**”—

Add

“or a re-domiciled company”.

235. Section 62 amended (approved trustee to notify Authority of events of significant nature)

- (1) Section 62(3)(c)—

Repeal the full stop

Substitute a semicolon.

- (2) After section 62(3)(c)—

Add

“(d) any change or proposed change in the approved trustee’s domicile.”.

236. Section 68 amended (eligibility for appointment as custodian)

- (1) Section 68(1)(b)—

Repeal

“incorporated in Hong Kong”.

- (2) Section 68(1)(c)—

Repeal

“incorporated in Hong Kong”.

- (3) Section 68 (3)(b)—

Repeal

“incorporated in Hong Kong”.

237. Section 71 amended (eligibility of delegate of custodian)

Section 71(1A)—

Repeal

“incorporated in Hong Kong”.

238. Schedule 1 amended (investment of scheme funds)

- (1) Schedule 1, section 11(1A), after “incorporated outside Hong Kong”—

Add

“that is not a re-domiciled entity”.

- (2) Schedule 1, section 15(2A), after “incorporated outside Hong Kong”—

Add

“that is not a re-domiciled entity”.

**Division 24—Mandatory Provident Fund Schemes
(Exemption) Regulation (Cap. 485 sub. leg. B)**

239. Schedule 3 amended (minimum standards applicable to trustees, etc. of schemes)

- (1) Schedule 3, English text, section 5(1)—

Repeal

“shall”.

- (2) Schedule 3, section 5(1)(a)—

Repeal

“Hong Kong,”

Substitute

“Hong Kong or a re-domiciled company, must”.

- (3) Schedule 3, section 5(1)(b)—

Repeal

“Hong Kong,”

Substitute

“Hong Kong but is not a re-domiciled company, must”.

- (4) Schedule 3, English text, section 5(1)(c), after “an individual,”—

Add

“must”.

- (5) Schedule 3, section 5(1)(c)(i)—

Repeal

“he”

Substitute

“the non-employer trustee”.

- (6) Schedule 3, section 5(1)(c)(ii)—

Repeal

“he”

Substitute

“the non-employer trustee”.

- (7) Schedule 3, section 5(1)(c)(iii)—

Repeal

“he”

Substitute

“the non-employer trustee”.

- (8) Schedule 3, section 5(1)(c)(iv) and (v)—

Repeal

“he”

Substitute

“the non-employer trustee”.

- (9) Schedule 3, section 5(1)(d)—

Repeal

“satisfy the Authority that he”

Substitute

“must satisfy the Authority that the employer trustee”.

Division 25—Securities and Futures Ordinance (Cap. 571)**240. Section 101A amended (interpretation of Part IIIA)**

Section 101A—

Add in alphabetical order

“*authorized financial institution incorporated in Hong Kong*
(在香港成立為法團的認可財務機構) means an
authorized institution incorporated in Hong Kong as
defined by section 2(1) of the Banking Ordinance (Cap.
155);”.

241. Section 103 amended (offence to issue advertisements, invitations or documents relating to investments in certain cases)

- (1) Section 103(3)(a)(ii), after “outside Hong Kong”—

Add

“that is not a re-domiciled company”.

- (2) Section 103(3)(b)(ii), after “outside Hong Kong”—

Add

“that is not a re-domiciled company”.

- (3) Section 103(3)(c)(i), after “outside Hong Kong”—

Add

“that is not a re-domiciled company”.

- (4) Section 103(3)(c)(ii), after “outside Hong Kong”—

Add

“that is not a re-domiciled company”.

242. Section 112A amended (interpretation of Part IVA)

- (1) Section 112A, English text, definition of
- re-domiciled OFC*
-

Repeal

“經遷冊”

Substitute

“經遷冊基金型”。

- (2) Section 112A, Chinese text—

Repeal the definition of 經遷冊公司.

- (3) Section 112A, Chinese text—

Add according to the number of strokes

“經遷冊基金型公司 (re-domiciled OFC) 的涵義如下：某開放式基金型公司如是根據第 8A 分部成為開放式基金型公司的，即屬經遷冊基金型公司；”。

243. Section 112ZJA amended (interpretation of Division 8A of Part IVA)

- (1) Section 112ZJA(1)—

Repeal the definition of non-Hong Kong fund corporation**Substitute**

“non-Hong Kong fund corporation (非香港基金法團)—

- (a) means a collective investment scheme constituted as a corporation that is incorporated outside Hong Kong as at the application date; but

- (b) does not include a re-domiciled company;”。

- (2) Section 112ZJA(1), Chinese text, definition of 籌劃中公司—

Repeal

“經遷冊”

Substitute

“經遷冊基金型”。

244. Section 175 amended (requirements for offers by intermediaries or representatives for Type 1, Type 4 or Type 6 regulated activity)

Section 175(5)(a)(iii), after “outside Hong Kong”—

Add

“that is not a re-domiciled company”。

245. Section 179 amended (power to require production of records and documents concerning listed corporations, etc.)

After section 179(1)(b)—

Add

- “(ba) it appears to the Commission that there are circumstances suggesting that a registration under section 820C(1) of the Companies Ordinance (Cap. 622) in relation to the corporation was sought or obtained for any fraudulent or unlawful purpose;”。

246. Section 381 amended (immunity in respect of communication with Commission by auditors of listed corporations, etc.)

- (1) Section 381(1), English text—

Repeal

“shall not”

Substitute

“does not”。

- (2) Section 381(1)—

Repeal

“his communicating”

Substitute

“the person’s communicating”.

- (3) Section 381(1)—

Repeal

“he”

Substitute

“the person”.

- (4) Section 381(1), English text—

Repeal

“his capacity”

Substitute

“the person’s capacity”.

- (5) Section 381(1), English text—

Repeal

“his opinion”

Substitute

“the person’s opinion”.

- (6) After section 381(1)(b)—

Add

“(ba) that a registration under section 820C of the Companies Ordinance (Cap. 622) in relation to the corporation was sought or obtained for any fraudulent or unlawful purpose;”.

247. Schedule 1 amended (interpretation and general provisions)

- (1) Schedule 1, Part 1, section 1, definition of *bank incorporated outside Hong Kong*, after “institution”—

Add

“and is not a re-domiciled entity as defined by section 2(1) of the Banking Ordinance (Cap. 155)”.

- (2) Schedule 1, Part 1, section 1—

Add in alphabetical order

“*re-domiciled company* (經遷冊公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);”.

248. Schedule 5 amended (regulated activities)

- (1) Schedule 5, Part 2, definition of *dealing in securities*, paragraph (vii), after “outside Hong Kong”—

Add

“that is not a re-domiciled company”.

- (2) Schedule 5, Part 2, definition of *dealing in securities*, paragraph (viii)(B), after “outside Hong Kong”—

Add

“that is not a re-domiciled company”.

- (3) Schedule 5, Part 2, definition of *dealing in securities*, paragraph (ix)(A), after “outside Hong Kong”—

Add

“that is not a re-domiciled company”.

249. Schedule 7 amended (offers by intermediaries or representatives for Type 1, Type 4 or Type 6 regulated activity under section 175 of this Ordinance)

- (1) Schedule 7, English text, Part 1, section 3—

Repeal

“shall instead”

Substitute

“must instead”.

- (2) Schedule 7, English text, Part 1, section 3—

Repeal

“therefor”

Substitute

“for that fact”.

- (3) Schedule 7, Part 1, section 3, after “Hong Kong”—

Add

“, or a re-domiciled company,”.

- (4) Schedule 7, English text, Part 1, section 3—

Repeal

“shall also”

Substitute

“must also”.

- (5) Schedule 7, Part 2, section 3(a)(iii)—

Repeal

“where the corporation has been incorporated outside Hong Kong”

Substitute

“if the corporation is incorporated outside Hong Kong and is not a re-domiciled company”.

- (6) Schedule 7, English text, Part 2, section 7—

Repeal

“shall instead”

Substitute

“must instead”.

- (7) Schedule 7, English text, Part 2, section 7—

Repeal

“therefor”

Substitute

“for that fact”.

- (8) Schedule 7, Part 2, section 7, after “Hong Kong”—

Add

“, or a re-domiciled company,”.

- (9) Schedule 7, English text, Part 2, section 7—

Repeal

“shall also”

Substitute

“must also”.

250. “經遷冊基金型公司” substituted for “經遷冊公司”

The following provisions, Chinese text—

- (a) section 112H(1)(a)(ii);
- (b) section 112U(2)(b);
- (c) section 112ZJD(1)(a) and (b), (3), (4)(a) and (5)(b);
- (d) section 112ZJE(1);
- (e) section 112ZK(4)(g)—

Repeal

“經遷冊公司” (wherever appearing)

Substitute

“經遷冊基金型公司”.

**Division 26—Securities and Futures (Amendment)
Ordinance 2014 (6 of 2014)**

251. Section 55 amended (Schedule 11 added)

- (1) Section 55, new Schedule 11, section 1(1)—

Add in alphabetical order

*“authorized financial institution incorporated in Hong Kong
(在香港成立為法團的認可財務機構) has the meaning
given by section 101A;”*

- (2) Section 55, new Schedule 11, section 22(5)(e)—

Repeal

“a locally incorporated authorized financial institution”

Substitute

*“an authorized financial institution incorporated in Hong
Kong”*

- (3) Section 55, new Schedule 11, section 30(4)(c)—

Repeal

“authorized financial institution is incorporated”

Substitute

“institution is an authorized financial institution incorporated”

**Division 27—Securities and Futures (Associated
Entities—Notice) Rules (Cap. 571 sub. leg. J)**

**252. Section 3 amended (particulars to be notified on becoming an
associated entity)**

After section 3(2)(b)—

Add

- “(ba) its place of domicile, and the date beginning on which that
place has been its place of domicile;
(bb) each of its former places of domicile (if any), and the
period during which that place was its place of domicile;”

**Division 28—Securities and Futures (Licensing and
Registration) (Information) Rules (Cap. 571 sub. leg. S)**

253. Section 5A added

After section 5—

Add

**“5A. Change in domicile of corporation basic information in
respect of which was provided before commencement date
of Companies (Amendment) (No. 2) Ordinance 2024**

- (1) This section applies if—

- (a) before the commencement date, any information
was provided to the Commission as described in
section 4(1) or 5(a)(ii), and the information included
particulars of a corporation provided as part of the
basic information in respect of the corporation; and
(b) there is a change in the corporation’s domicile on or
after the commencement date (*change in domicile*).

- (2) For the purposes of section 4 or 5(a)—

- (a) the change in domicile is taken to be a change in
the particulars of the corporation that were provided
to the Commissioner as described in section 4(1) or
5(a)(ii), as the case may be, as part of the basic
information in respect of the corporation; and
(b) a reference in section 4(1) or 5(a)(ii) to a full
description of a change in information is, in so far as

the change in domicile is concerned, a reference to—

- (i) if the change in domicile involves a place becoming the corporation's place of domicile—the matters set out in section 2(ca) of Part 1 of Schedule 1; or
- (ii) if the change in domicile involves a place ceasing to be the corporation's place of domicile—the matters set out in section 2(cb) of that Part.

(3) In this section—

commencement date (生效日期) means the date on which section 253 of the Companies (Amendment) (No. 2) Ordinance 2024 (of 2024) comes into operation.”.

254. Schedule 1 amended (meaning of terms *basic information* and *relevant information*)

(1) Schedule 1—

Repeal

“[s. 2”

Substitute

“[ss. 2 & 5A”.

(2) Schedule 1, Part 1, after section 2(c)—

Add

“(ca) its place of domicile, and the date beginning on which that place has been its place of domicile;

(cb) each of its former places of domicile, and the period during which that place was its place of domicile;”.

(3) Schedule 1, Part 1, section 2(e), after “Hong Kong”—

Add

“that is not a re-domiciled company”.

Division 29—Securities and Futures (OTC Derivative Transactions—Reporting and Record Keeping Obligations) Rules (Cap. 571 sub. leg. AL)

255. Rule 2 amended (interpretation)

Rule 2—

Add in alphabetical order

“*authorized financial institution incorporated in Hong Kong* (在香港成立為法團的認可財務機構) means an authorized institution incorporated in Hong Kong as defined by section 2(1) of the Banking Ordinance (Cap. 155);

authorized financial institution incorporated outside Hong Kong (在香港以外地方成立為法團的認可財務機構) means an authorized institution incorporated outside Hong Kong as defined by section 2(1) of the Banking Ordinance (Cap. 155);”.

Division 30—Securities and Futures (OTC Derivative Transactions—Clearing and Record Keeping Obligations and Designation of Central Counterparties) Rules (Cap. 571 sub. leg. AN)

256. Rule 2 amended (interpretation)

(1) Rule 2, definition of *local AFI*—

Repeal

everything after “means”

Substitute

“an authorized institution incorporated in Hong Kong as defined by section 2(1) of the Banking Ordinance (Cap. 155);”.

- (2) Rule 2, definition of *local AMB*, after “Hong Kong”—

Add

“or is a re-domiciled entity”.

- (3) Rule 2, definition of *local LC*, after “Hong Kong”—

Add

“or is a re-domiciled entity”.

- (4) Rule 2, definition of *overseas AFI*—

Repeal

everything after “means”

Substitute

“an authorized institution incorporated outside Hong Kong as defined by section 2(1) of the Banking Ordinance (Cap. 155);”.

- (5) Rule 2, definition of *overseas AMB*, after “Hong Kong”—

Add

“and is not a re-domiciled entity”.

- (6) Rule 2, definition of *overseas LC*, after “Hong Kong”—

Add

“and is not a re-domiciled entity”.

- (7) Rule 2—

Add in alphabetical order

“*re-domiciled entity* (經遷冊實體) means a re-domiciled company that is deregistered as required by section 820E(3)(a) of the Companies Ordinance (Cap. 622);”.

257. Rule 6 amended (when clearing obligation arises)

- (1) Rule 6(3)(a) and (b), after “LC”—

Add

“on the day on which the exit notice is given,”.

- (2) Rule 6(5)(a)—

Repeal

“where the person is a local AFI, a local AMB or a local LC, the average total position of the person for a”

Substitute

“where, as at the end of a calculation period, the person is a local AFI, a local AMB or a local LC—the average total position of the person for the”.

- (3) Rule 6(5)(b)—

Repeal

“where the person is an overseas AFI, an overseas AMB or an overseas LC, the average local total position of the person for a”

Substitute

“where, as at the end of a calculation period, the person is an overseas AFI, an overseas AMB or an overseas LC—the average local total position of the person for the”.

258. Rule 8 amended (clearing obligation does not apply to transactions with exempt affiliate)

- Rule 8(2)(a)—

Repeal subparagraph (iii)**Substitute**

“(iii) if the holding company is incorporated in a place outside Hong Kong and is not a re-domiciled entity—the

standards of accounting practices applicable to the holding company in that place; and”.

Division 31—Securities and Futures (Open-ended Fund Companies) Rules (Cap. 571 sub. leg. AQ)

259. Rule 99 amended (interpretation)

Rule 99—

Repeal the definition of *non-Hong Kong custodian*

Substitute

“*non-Hong Kong custodian* (非香港保管人)—

- (a) means a custodian incorporated outside Hong Kong; but
- (b) does not include a custodian that is a re-domiciled company;”.

260. “經遷冊基金型公司” substituted for “經遷冊公司”

The following provisions, Chinese text—

- (a) rule 2(2);
- (b) rule 8A(2)(e)(vii);
- (c) rule 8D, Note;
- (d) rule 8E(1)(a);
- (e) rule 67(3A);
- (f) rule 160(2A)—

Repeal

“經遷冊公司” (wherever appearing)

Substitute

“經遷冊基金型公司”.

Division 32—Deposit Protection Scheme Ordinance (Cap. 581)

261. Section 2 amended (interpretation)

Section 2(1)—

Add in alphabetical order

“*re-domiciled entity* (經遷冊實體) has the meaning given by section 2(1) of the Banking Ordinance (Cap. 155);”.

262. Section 13 amended (exemption)

(1) After section 13(4)(a)—

Add

“(ab) the bank is not a re-domiciled entity;”.

(2) Section 13(4)(b), after “incorporated”—

Add

“or domiciled”.

(3) Section 13(10)(b), after “incorporated”—

Add

“or domiciled”.

263. Section 23 amended (Monetary Authority to report to Chief Executive in Council on occurrence of specified event)

(1) Section 23(2)(a), after “Hong Kong”—

Add

“or is a re-domiciled entity”.

(2) Section 23(2)(b), after “incorporated outside Hong Kong”—

Add

“and is not a re-domiciled entity”.

Division 33—Payment Systems and Stored Value Facilities Ordinance (Cap. 584)

264. Section 8A amended (interpretation of Part 2A)

Section 8A(1), definition of *company*, after paragraph (a)—

Add

“(ab) a re-domiciled entity as defined by section 2(1) of the Banking Ordinance (Cap. 155);”.

Division 34—Accounting and Financial Reporting Council Ordinance (Cap. 588)

265. Section 2 amended (interpretation)

Section 2(1), definition of *overseas entity*—

Repeal

everything after “(境外”

Substitute

“實體)—

(a) means—

(i) a collective investment scheme constituted under the laws of any place outside Hong Kong; or

(ii) a body corporate incorporated outside Hong Kong,

whether or not the scheme or body is a listed entity; but

(b) does not include a re-domiciled company as defined by section 2(1) of the Companies Ordinance (Cap. 622);”.

266. Section 20A amended (interpretation)

Section 20A—

Repeal the definition of *Mainland corporation*

Substitute

“*Mainland corporation* (內地法團)—

(a) means a company or body corporate incorporated in the Mainland of China; but

(b) does not include a re-domiciled company as defined by section 2(1) of the Companies Ordinance (Cap. 622);”.

267. Section 20ZUA added

After section 20ZU—

Add

“20ZUA. **Supplemental provision for section 20ZU: where overseas entity becomes a re-domiciled company**

(1) This section applies if—

(a) an overseas entity becomes a re-domiciled company as defined by section 2(1) of the Companies Ordinance (Cap. 622) (*re-domiciliation*); and

(b) immediately before the re-domiciliation, the entity is required, but has yet to, comply with section 20ZU(2).

(2) Despite the re-domiciliation—

(a) the entity is required to comply with section 20ZU(2); and

(b) section 20ZU(3) applies in relation to a non-compliance with section 20ZU(2),

as if the re-domiciliation had not taken place and the entity was still an overseas entity.”

Division 35—Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615)

268. Section 53ZRK amended (application for and grant of licence)

Section 53ZRK(3)(a)(ii)—

Repeal

“as defined by section 2(1) of the Companies Ordinance (Cap. 622)”.

269. Section 53ZTZ amended (interpretation of Part 5C)

Section 53ZTZ, definition of *non-Hong Kong precious metals and stones dealer*, paragraph (a)(i)(B)—

Repeal

“not a registered non-Hong Kong company as defined by section 2(1) of the Companies Ordinance (Cap. 622)”

Substitute

“neither a registered non-Hong Kong company nor a re-domiciled company”.

270. Schedule 1 amended (interpretation)

Schedule 1, Part 2, section 1—

Add in alphabetical order

“*re-domiciled company* (經遷冊公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);

re-domiciled entity (經遷冊實體) means a re-domiciled company that is deregistered as required by section 820E(3)(a) of the Companies Ordinance (Cap. 622);

registered non-Hong Kong company (註冊非香港公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);”.

271. Schedule 2 amended (requirements relating to customer due diligence and record-keeping)

- (1) Schedule 2, section 1(1), definition of *identification document*, paragraph (b)—

Repeal

everything after “622);”

Substitute

“means—

- (i) the certificate of incorporation issued in respect of the company under the Ordinance under which the company was formed and registered; or
- (ii) the certificate of re-domiciliation issued in respect of the company under the Companies Ordinance (Cap. 622);”.

- (2) Schedule 2, section 1(1), definition of *identification document*, paragraph (c)—

Repeal

“as defined by section 2(1) of the Companies Ordinance (Cap. 622)”.

- (3) Schedule 2, section 1(1), definition of *identification document*, paragraph (d)—

Repeal

“other than”

Substitute

“and that is neither a re-domiciled company nor”.

- (4) Schedule 2, section 18(7), definition of *related foreign financial institution*, paragraph (b)(ii), after “Hong Kong”—

Add

“or is a re-domiciled entity”.

- (5) Schedule 2, section 18(7), definition of *related foreign financial institution*, paragraph (b)(iii), after “Hong Kong”—

Add

“and is not a re-domiciled entity”.

- (6) Schedule 2, section 22(1)—

Repeal

“incorporated in Hong Kong”

Substitute

“that is incorporated in Hong Kong or is a re-domiciled entity”.

- (7) Schedule 2, section 22(2A)—

Repeal

“incorporated in Hong Kong”

Substitute

“that is incorporated in Hong Kong or is a re-domiciled entity”.

272. Schedule 3D amended (associated entities—prescribed particulars)

Schedule 3D, after section 2(d)—

Add

“(da) its place of domicile, and the date beginning on which that place has been its place of domicile;

(db) each of its former places of domicile (if any), and the period during which that place was its place of domicile;”.

273. Schedule 3J amended (information to be provided in cash transaction report)

Schedule 3J, section 2(2), definition of *basic information*, paragraph (b)—

Repeal subparagraph (iii)

Substitute

“(iii) for a person that is a corporation—

(A) subject to sub-subparagraph (B)—address of the registered office (or its equivalent) of the person in its place of incorporation; or

(B) if the person has changed its place of domicile after its incorporation—address of the registered office (or its equivalent) of the person in its latest place of domicile;”.

Division 36—Financial Institutions (Resolution) Ordinance (Cap. 628)

274. Section 2 amended (interpretation)

- (1) Section 2(1), definition of *chief executive officer*, after “jurisdiction”—

Add

“and is not a re-domiciled entity”.

- (2) Section 2(1), definition of *deputy chief executive officer*, after “jurisdiction”—

Add

“and is not a re-domiciled entity”.

- (3) Section 2(1), definition of *non-Hong Kong financial institution*—

Repeal

“established or incorporated in a non-Hong Kong jurisdiction”

Substitute

“that is established or incorporated in a non-Hong Kong jurisdiction and is not a re-domiciled entity”.

- (4) Section 2(1)—

Add in alphabetical order

“*re-domiciled entity* (經遷冊實體) means a re-domiciled company (as defined by section 2(1) of the Companies Ordinance (Cap. 622)) that is deregistered as required by section 820E(3)(a) of that Ordinance;”.

275. Section 24 amended (power to remove directors etc.)

- (1) Section 24(3), Chinese text—

Repeal

“成立或”

Substitute

“設立或”.

- (2) After section 24(8)—

Add

- “(9) In this section—

- (a) a reference in subsection (1) to a within scope financial institution incorporated in Hong Kong includes a within scope financial institution that is a re-domiciled entity;
- (b) a reference in subsection (1) to a holding company incorporated in Hong Kong includes a holding company that is a re-domiciled entity;

- (c) a reference in subsection (3) to a financial institution that is established or incorporated in a non-Hong Kong jurisdiction does not include a financial institution that is a re-domiciled entity; and
- (d) a reference in subsection (3) to a holding company that is established or incorporated in a non-Hong Kong jurisdiction does not include a holding company that is a re-domiciled entity.”.

276. Section 58 amended (bail-in instruments)

Section 58(5)(c)(iv)—

Repeal

“by a bridge institution or a holding company of the financial institution that is incorporated in Hong Kong.”

Substitute

“by—

- (A) a bridge institution; or
- (B) a holding company of the financial institution, which is incorporated in Hong Kong or is a re-domiciled entity.”.

**Division 37—Financial Institutions (Resolution) (Loss-absorbing Capacity Requirements—Banking Sector) Rules
(Cap. 628 sub. leg. B)**

277. Rule 2 amended (interpretation)

- (1) Rule 2(1)—

Repeal the definition of *HK affiliated operational entity*

Substitute

“HK affiliated operational entity (香港相聯營運實體) means an entity—

- (a) that is an affiliated operational entity of an authorized institution incorporated in Hong Kong; and
- (b) that—
 - (i) is incorporated in Hong Kong or is a re-domiciled entity; and
 - (ii) is not itself an authorized institution or HK holding company;”.

(2) Rule 2(1)—

Repeal the definition of *HK holding company*

Substitute

“HK holding company (香港控權公司) means an entity—

- (a) that is a holding company of an authorized institution incorporated in Hong Kong; and
- (b) that—
 - (i) is incorporated in Hong Kong or is a re-domiciled entity; and
 - (ii) is not itself an authorized institution;”.

(3) Rule 2(1), definition of ***loss-absorbing capacity***, paragraph (c), after “incorporated in a non-Hong Kong jurisdiction”—

Add

“that is not a re-domiciled entity”.

(4) Rule 2(1)—

Repeal the definition of *non-HK resolution entity*

Substitute

“non-HK resolution entity (非香港處置實體), in relation to a material subsidiary, means an entity that—

- (a) is established or incorporated in a non-Hong Kong jurisdiction where the preferred resolution strategy covering the material subsidiary contemplates the taking of a non-Hong Kong resolution action in relation to the entity; and
- (b) is not a re-domiciled entity;”.

278. Rule 26 amended (internal LAC scalar)

- (1) Rule 26(4)(a), after “in Hong Kong”—

Add

“and is not a re-domiciled entity”.

- (2) Rule 26(4)(b), after “in Hong Kong”—

Add

“or is a re-domiciled entity”.

279. Rule 56 amended (group disclosures and internet websites)

- Rule 56(1)(b), after “jurisdiction”—

Add

“and is not a re-domiciled entity”.

280. Schedule 2 amended (qualifying criteria to be met to be internal LAC debt instrument)

- (1) Schedule 2, section 2(1)(d), after “non-Hong Kong jurisdiction”—

Add

“and is not a re-domiciled entity”.

- (2) Schedule 2, section 2(2)(b), after “non-Hong Kong jurisdiction”—

Add

“that is not a re-domiciled entity”.

**Division 38—Financial Institutions (Resolution)
(Contractual Recognition of Suspension of Termination
Rights—Banking Sector) Rules (Cap. 628 sub. leg. C)**

281. Rule 2 amended (interpretation)

Rule 2—

Repeal the definition of *HK holding company*

Substitute

“*HK holding company* (香港控權公司) means an entity—

- (a) that is a holding company of an authorized institution incorporated in Hong Kong; and
- (b) that—
 - (i) is incorporated in Hong Kong or is a re-domiciled entity; and
 - (ii) is not itself an authorized institution;”.

Division 39—Limited Partnership Fund Ordinance (Cap. 637)

282. Section 2 amended (interpretation)

Section 2—

Add in alphabetical order

“*re-domiciled company* (經遷冊公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);”.

283. Section 7 amended (eligibility)

After section 7(1)(c)(iii)—

Add

“(iia) a private company limited by shares that is a re-domiciled company;”.

284. Section 9 amended (restrictions on limited partnership fund’s name)

After section 9(1)(c)—

Add

“(ca) that is the same as a name of a re-domiciled company;”.

285. Section 29 amended (duty to keep records)

- (1) Section 29(3)(b)(ii), after “in Hong Kong”—

Add

“, a re-domiciled company”.

- (2) Section 29(3)(b)(vii), after “in Hong Kong”—

Add

“and is not a re-domiciled company”.

286. Section 42 amended (Registrar may direct limited partnership fund to change same or similar name, etc.)

Section 42(1)—

Repeal paragraphs (b) and (c)

Substitute

“(b) the name is, as at the time of registration, the same as a name of—

- (i) a body corporate incorporated or established under an Ordinance; or

- (ii) a re-domiciled company;
- (c) in the Registrar's opinion, the name is, as at the time of the registration, too like a name of—
 - (i) a body corporate incorporated or established under an Ordinance; or
 - (ii) a re-domiciled company;”.

287. Schedule 1 amended (information required in application for registration as limited partnership fund)

Schedule 1, after item 5—

Add

“5A. If the proposed general partner is a private company limited by shares that is a re-domiciled company—

- (a) the full name of the company;
- (b) the address of the company's registered office;
- (c) the number of the company's business registration certificate; and
- (d) the signature of a director or company secretary of the company.”.

Explanatory Memorandum

The main purpose of this Bill is to amend the Companies Ordinance (Cap. 622) (*Cap. 622*) to introduce a new registration regime (*new regime*) to enable a company incorporated outside Hong Kong (other than a corporation sole) (*non-HK corporation*) to transfer its domicile to Hong Kong. Because of the introduction of the new regime, related or technical amendments are also required to be made to other enactments.

2. The Bill contains 4 Parts.

Part 1—Preliminary

3. Clause 1 sets out the short title.

Part 2—Amendments to Cap. 622

4. Part 2 contains amendments to Cap. 622.

Introduction of New Registration Regime

5. The main provisions regarding the new regime are added to Cap. 622 by clauses 68 and 76.
6. Clause 68 adds a new Part 17A to Cap. 622. New Part 17A contains 8 new sections (new sections 820A to 820H).
7. New section 820A seeks to define certain expressions used in new Part 17A. These expressions include *certificate of re-domiciliation*, *place of incorporation*, *re-domiciliation date* and *re-domiciliation form*.
8. New section 820B contains provisions relating to an application for registration by a non-HK corporation under new Part 17A. That section requires an application to be made by delivering to the Registrar of Companies (*Registrar*) a re-domiciliation form and

certain other documents. The information and statements required to be contained in the re-domiciliation form are specified in new Schedules 6A and 6B (clause 76). The other documents required to accompany the re-domiciliation form are specified in new Schedule 6C (clause 76).

9. New section 820C provides for the consideration of the application by the Registrar and the registration of the applicant under that section.
10. New section 820D provides for the effect of a registration under new section 820C.
11. New section 820E imposes a duty on a non-HK corporation to deregister in its place of incorporation after it is registered under new section 820C. If the non-HK corporation fails to discharge the duty, its registration under new section 820C will be revoked under new section 820F.
12. New section 820G provides for the period before which a written consent required to be given by a person who is to be a director of the non-HK corporation after its registration under new section 820C is to be delivered to the Registrar.
13. New section 820H is about the reporting duty of a non-HK corporation after it is registered under new section 820C.

Other Amendments to Cap. 622

14. Other clauses in Part 2 include amendments required to be made as a result of the introduction of the new regime and the addition of new Part 17A to Cap. 622. These amendments are introduced to enable a non-HK corporation registered under new section 820C to be regulated (as far as possible) in the same way as a company formed and registered under Cap. 622.

Part 3—Amendments to Subsidiary Legislation Made under Cap. 622

15. Part 3 contains related amendments to the following subsidiary legislation made under Cap. 622 (clauses 80 to 96)—
 - (a) the Companies (Disclosure of Company Name and Liability Status) Regulation (Cap. 622 sub. leg. B);
 - (b) the Companies (Directors' Report) Regulation (Cap. 622 sub. leg. D);
 - (c) the Companies (Non-Hong Kong Companies) Regulation (Cap. 622 sub. leg. J);
 - (d) the Companies (Fees) Regulation (Cap. 622 sub. leg. K);
 - (e) the Non-Hong Kong Companies (Disclosure of Company Name, Place of Incorporation and Members' Limited Liability) Regulation (Cap. 622 sub. leg. M).

Part 4—Related Amendments to Other Enactments

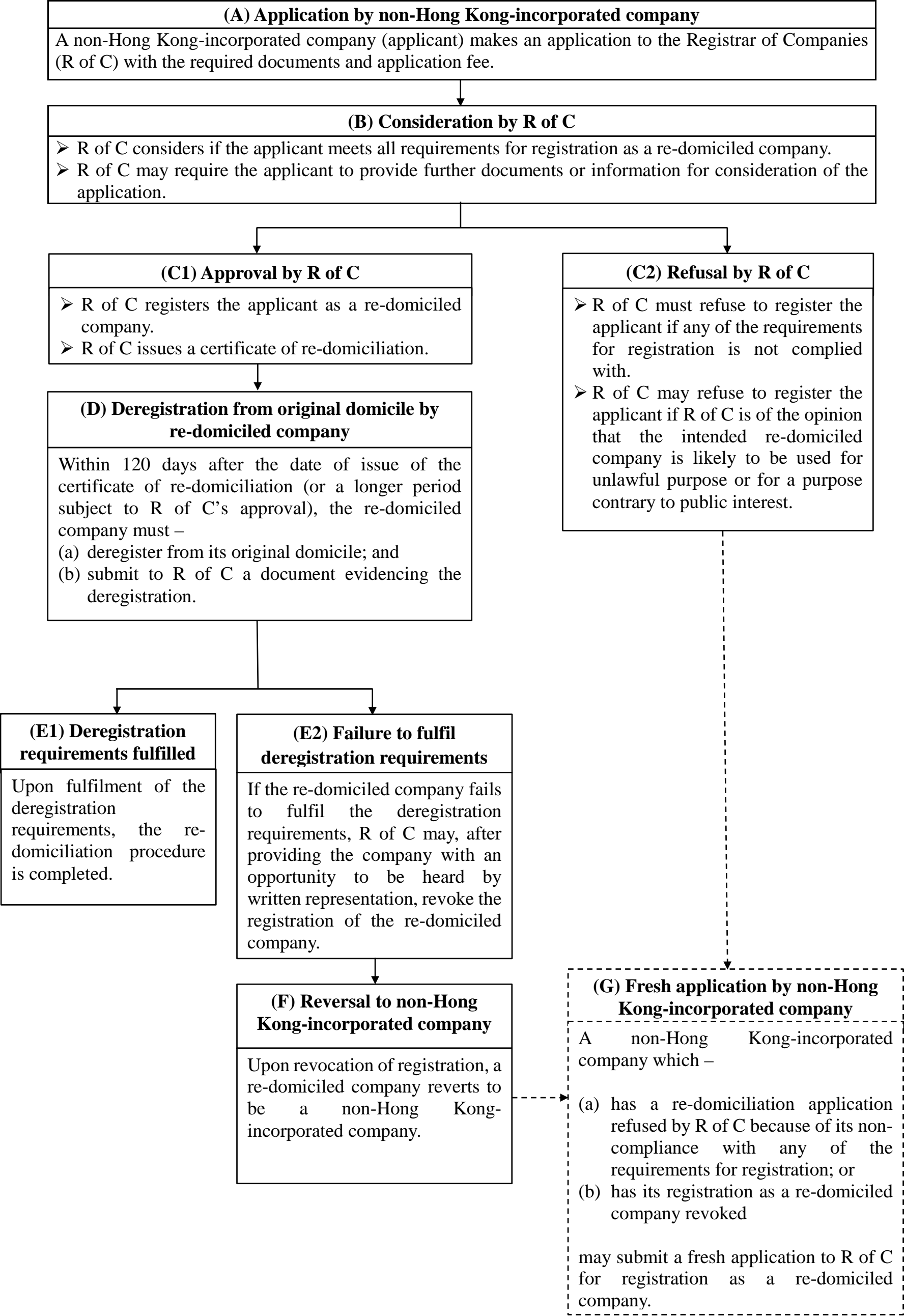
16. Related or technical amendments are also required to be made to the following enactments—
 - (a) the Trustee Ordinance (Cap. 29);
 - (b) the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) and its subsidiary legislation;
 - (c) the Insurance Ordinance (Cap. 41) and its subsidiary legislation;
 - (d) the Inland Revenue Ordinance (Cap. 112);
 - (e) the Banking Ordinance (Cap. 155) and its subsidiary legislation;
 - (f) the Business Registration Ordinance (Cap. 310) and its subsidiary legislation;

- (g) The Hong Kong Association of Banks Ordinance (Cap. 364) and its subsidiary legislation;
- (h) the Control of Obscene and Indecent Articles Ordinance (Cap. 390);
- (i) the Merchant Shipping (Registration) Ordinance (Cap. 415);
- (j) the Occupational Retirement Schemes Ordinance (Cap. 426) and its subsidiary legislation;
- (k) the Mandatory Provident Fund Schemes Ordinance (Cap. 485) and its subsidiary legislation;
- (l) the Securities and Futures Ordinance (Cap. 571) and its subsidiary legislation;
- (m) the Securities and Futures (Amendment) Ordinance 2014 (6 of 2014);
- (n) the Deposit Protection Scheme Ordinance (Cap. 581);
- (o) the Payment Systems and Stored Value Facilities Ordinance (Cap. 584);
- (p) the Accounting and Financial Reporting Council Ordinance (Cap. 588);
- (q) the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615);
- (r) the Financial Institutions (Resolution) Ordinance (Cap. 628) and its subsidiary legislation;
- (s) the Limited Partnership Fund Ordinance (Cap. 637).

17. These amendments are dealt with in Part 4, and include amendments that are necessitated by the new regime for modifying various provisions of those enactments in details (*specific amendments*). Other than the specific amendments, there is also included in the Bill a clause 3(7) to add new section 2(5A) to (5C) to Cap. 622—

- (a) providing for a general deeming provision that a re-domiciled company is, for the purposes of the laws of Hong Kong, to be regarded as a company incorporated in Hong Kong with effect from its re-domiciliation date;
- (b) providing that the deeming provision is subject to the specific amendments; and
- (c) providing that the deeming provision is not applicable, or does not have effect, under specified circumstances or in relation to certain provisions of specified Ordinances as set out in new Schedule 12 to Cap. 622 added by clause 79.

COMPANY RE-DOMICILIATION APPLICATION PROCEDURES



**LIST OF DOCUMENTS AND FEES
FOR APPLICATION OF RE-DOMICILIATION**

Documents

1. Completed and signed re-domiciliation form which, among others, contains information in relation to the applicant's name, original domicile, registration under Part 16 of the Companies Ordinance (if any), and details of share capital and members; as well as the intended re-domiciled company's name, company type, address of registered office, and name and other particulars of each person who is to be a director and company secretary;
2. Copy of the proposed articles of association to be adopted as the articles of association of the intended re-domiciled company;
3. Certified copy of certificate of incorporation (and registration in the case of a company which has re-domiciled before) of the applicant;
4. Certified copy of each constitutional document of the applicant;
5. If neither the law of the original domicile nor the constitutional document of the applicant requires members' consent, certified copy of a resolution duly passed by at least 75% of the eligible members;
6. Legal opinion of a legal practitioner who practises the law of the original domicile in relation to, among others, the applicant's due registration in the original domicile, company type and solvency, permission of the proposed re-domiciliation under the law of the original domicile or the constitutional document of the applicant, consent from members of the company for the proposed re-domiciliation, as well as the intended re-domiciled company's type, name and adoption of the proposed articles of association;
7. Accounts (or audited accounts, if any) as at a date no more than 12 months prior to the application date; and

8. Certificate signed by a director of the applicant in relation to, among others, the applicant's registration and solvency, as well as the consent to or approval for the proposed re-domiciliation required by any contract entered into by the applicant having been obtained.

Fees

For lodging of a re-domiciliation form and other documents –

- | | |
|---|---------|
| (a) if delivered in electronic form; or | \$1,030 |
| (b) if delivered in hard copy form | \$1,145 |

For registration of the non-Hong Kong-incorporated company as a re-domiciled company –

- | | |
|---|---------|
| (a) if the re-domiciliation form and other documents are delivered in electronic form; or | \$5,020 |
| (b) if the re-domiciliation form and other documents are delivered in hard copy form | \$5,580 |

**ENACTMENTS TO WHICH RELATED AMENDMENTS WILL BE
INTRODUCED UNDER PART 4 OF
COMPANIES (AMENDMENT) (NO. 2) BILL 2024**

	CHAPTER	SHORT TITLE
1.	29	Trustee Ordinance
2.	32	Companies (Winding Up and Miscellaneous Provisions) Ordinance
3.	32J	Companies (Reports on Conduct of Directors) Regulation
4.	32L	Companies (Exemption of Companies and Prospectuses from Compliance with Provisions) Notice
5.	41	Insurance Ordinance
6.	41L	Insurance (Financial and Other Requirements for Licensed Insurance Broker Companies) Rules
7.	41O	Insurance (Group Capital) Rules
8.	112	Inland Revenue Ordinance
9.	155	Banking Ordinance
10.	155L	Banking (Capital) Rules
11.	155Q	Banking (Liquidity) Rules
12.	155S	Banking (Exposure Limits) Rules
13.	310	Business Registration Ordinance
14.	310A	Business Registration Regulations
15.	364	The Hong Kong Association of Banks Ordinance
16.	364A	The Hong Kong Association of Banks By-laws
17.	390	Control of Obscene and Indecent Articles Ordinance

18.	415	Merchant Shipping (Registration) Ordinance
19.	426	Occupational Retirement Schemes Ordinance
20.	426D	Occupational Retirement Schemes (Fees) Rules
21.	426J	Occupational Retirement Schemes (Notices of Changes) Rules
22.	485	Mandatory Provident Fund Schemes Ordinance
23.	485A	Mandatory Provident Fund Schemes (General) Regulation
24.	485B	Mandatory Provident Fund Schemes (Exemption) Regulation
25.	571	Securities and Futures Ordinance
26.	6 of 2014	Securities and Futures (Amendment) Ordinance 2014
27.	571J	Securities and Futures (Associated Entities—Notice) Rules
28.	571S	Securities and Futures (Licensing and Registration) (Information) Rules
29.	571AL	Securities and Futures (OTC Derivative Transactions – Reporting and Record Keeping Obligations) Rules
30.	571AN	Securities and Futures (OTC Derivative Transactions—Clearing and Record Keeping Obligations and Designation of Central Counterparties) Rules
31.	571AQ	Securities and Futures (Open-ended Fund Companies) Rules
32.	581	Deposit Protection Scheme Ordinance
33.	584	Payment Systems and Stored Value Facilities Ordinance
34.	588	Accounting and Financial Reporting Council Ordinance

- | | | |
|-----|------|--|
| 35. | 615 | Anti-Money Laundering and Counter-Terrorist Financing Ordinance |
| 36. | 628 | Financial Institutions (Resolution) Ordinance |
| 37. | 628B | Financial Institutions (Resolution) (Loss-absorbing Capacity Requirements—Banking Sector) Rules |
| 38. | 628C | Financial Institutions (Resolution) (Contractual Recognition of Suspension of Termination Rights—Banking Sector) Rules |
| 39. | 637 | Limited Partnership Fund Ordinance |

ECONOMIC AND FINANCIAL IMPLICATIONS

Economic Implications

The proposal will enhance Hong Kong's status as a global business hub. Specifically, it would attract companies to re-domicile to Hong Kong, bringing greater demand for Hong Kong's professional services (such as audit, accounting and legal services) and creating more investment and skilled job opportunities as the re-domiciled companies may move some of their business operations to Hong Kong.

Financial Implications

2. As set out in Part 3 of the Bill, the Companies Registry (CR) will introduce in total 15 new fees, including fees payable by the applicant for lodging the re-domiciliation applications and registration of re-domiciled companies, fee payable by a re-domiciled company for registering pre-existing charges of the re-domiciled company, and fees payable by any person for inspection of or obtaining documents or information kept by the Registrar of Companies in relation to the re-domiciled companies.

3. We propose to determine the fee levels for the new fees on a cost-recovery basis. It is estimated that the workflow for processing an application for company re-domiciliation will incur extra time as compared to that for the existing incorporation of a local company, mainly due to the need to vet additional application documents¹ and seek internal legal advice where necessary. As such, the four proposed new fees for the lodging of a re-domiciliation form and other documents and registration of the applicant as a re-domiciled company are set with incremental costs, which are calculated based on the extra processing time involved, incorporated on top of the existing corresponding fees for incorporation of

¹ They include a certified copy of the certificate of incorporation or registration of the applicant issued under the law of its latest domicile and each constitutional document of the applicant, a certified copy of a resolution passed by the applicant's members for the re-domiciliation proposal (where necessary), the accounts of the applicant as at a date not earlier than 12 months before the application date, a legal opinion confirming the applicant's compliance with certain requirements to be specified in the Companies Ordinance (Cap. 622) (CO), and a certificate signed by a director of the applicant certifying the applicant's compliance with certain requirements to be specified in the CO. These documents are not required for incorporation of local companies.

local companies.

4. Whereas, the workflow for registration of charges as well as conducting search on documents of a re-domiciled company will be similar to that of a Hong Kong-incorporated company, thus will not incur extra processing time. As such, the 11 proposed new fees for the said functions are modelled on existing fees collected by the CR for registration of charges and inspection of or obtaining documents or information in relation to Hong Kong-incorporated companies.

5. The amount of revenue to be generated from the new fees would depend on the number of re-domiciliation applications as well as the number of registrable pre-existing charges of companies which apply and are successfully registered as re-domiciled companies, on which quantitative estimation is not available given re-domiciliation is ultimately a commercial decision on the part of a company.

6. The CR will need to enhance its information system to cater for the implementation of the company re-domiciliation regime. The expenditure involved will be absorbed by the CR Trading Fund.

**STREAMLINED APPLICATION REQUIREMENTS AND
PROCEDURES IN RESPONSE TO STAKEHOLDERS'
SUGGESTIONS**

Proof of solvency: we relaxed the originally proposed requirement for the applicant to submit latest audited financial statements as at a date no more than three months prior to the application date to a requirement to submit the latest accounts as at a date no later than 12 months prior to the application date. The accounts are required to be audited only if it is so required under the law of its original domicile or the rules of relevant stock exchange or similar regulatory bodies. We will also require the provision of legal opinion of a legal practitioner who practises the law of the original domicile of the applicant that the applicant is duly registered and validly subsisting in the original domicile and that the applicant is not in liquidation;

Members' consent: we adjusted the members' consent requirement, which is applicable if neither the law of the original domicile nor the constitutional document of the applicant has such equivalent requirement, to accept members' consent by a resolution duly passed by at least 75% of the eligible members (regardless of whether passed in a meeting or by resolution in written form);

Proof of compliance: to ensure an applicant's compliance with the requirements of the laws of its original domicile, we accepted stakeholders' suggestion and will require the provision of a legal opinion of a legal practitioner who practises the law of the original domicile of the applicant that the proposed re-domiciliation is allowed under that law; and

Deregistration period: we extended the specified period for a re-domiciled company's deregistration from its original place of domicile from 60 days to 120 days taking into consideration stakeholders' concerns over the uncertainty in the time required for the deregistration procedures in the original domicile. We also allow re-domiciled companies to apply for extension where necessary.