
SUPERVISION AND REGULATION

This section provides a brief summary of some of the laws, rules and regulations relevant to our activities. It is not exhaustive and investors should not place undue reliance on the statements in this section. You should consult your own advisers about the legislation referred to in this section.

PRC REGULATORY OVERVIEW

We are subject to extensive regulation in China with respect to our Investment Banking, Sales, Trading and Brokerage, Asset Management and Investment businesses. The principal laws and regulations governing our businesses in China include the PRC Securities Law (中華人民共和國證券法), the PRC Securities Investment Fund Law (中華人民共和國證券投資基金法) and the Regulations on Supervision and Administration of Securities Companies (證券公司監督管理條例). These regulations relate to, among other things, licensing requirements for securities companies, qualifications of securities professionals, disclosure requirements and risk management. In addition, we are subject to laws and regulations governing Chinese companies generally, such as foreign exchange, taxation and corporate registrations.

Regulatory Authorities

The principal regulators of the PRC securities industry include:

- **The CSRC.** The CSRC is responsible for the supervision and regulation of China's securities and futures markets and industry participants. The CSRC formulates policies and development plans for the securities and futures markets, and drafts and enforces relevant laws and regulations.
- **The SAC.** The Securities Association of China is a self-regulatory organisation for securities companies in China. It formulates and enforces practice standards and codes of conduct, and supervises professional qualification examinations and registrations of securities professionals.
- **Stock Exchanges.** The two principal stock exchanges in China are the Shanghai Stock Exchange and the Shenzhen Stock Exchange. They accept and review listing applications, arrange for securities listings, oversee trading activities and regulate their members and listed companies.

Business Scope

A securities company may engage in some or all of the following business activities with the approval of the CSRC:

- brokerage;
- investment advisory;
- trading and investment advisory;
- underwriting and sponsorship;
- proprietary trading;
- asset management; and
- other securities businesses.

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A securities company shall obtain approval from the CSRC to engage in the above businesses and any new or innovative businesses. In addition, a securities company is required to obtain separate permits and approvals to provide margin financing and securities lending services, sell interests in third-party mutual funds as an agent or act as introducing broker for futures companies.

In addition, a securities company must obtain prior approvals from the CSRC before undertaking certain “fundamental changes” to its business, including the establishment, acquisition or termination of a branch office, change of business scope or registered capital, change of shareholders or control persons holding 5% or more of the shares of the company, amendment of major provisions of the company’s articles of association, merger or spin-off, change of corporate form, the suspension, dissolution or bankruptcy of the company and the establishment and acquisition of or equity investment in overseas securities companies.

Any shareholder that transfers its equity interests in a PRC securities company needs to ensure that the transferee and the beneficial owner of the transferred shares possess the necessary qualifications as required by law and the CSRC. Prior approval from the CSRC is required for any person or entity to directly or indirectly hold 5% or more of the total equity interest of a securities company in China. Any shareholder that increases its shareholding in a securities company to more than 5% of the company’s registered capital without the CSRC’s prior approval will lose its voting right associated with such shares until approval from the CSRC is obtained.

A securities company and its subsidiary, or subsidiaries under the control of the same securities company, shall not operate similar businesses which would result in conflicts of interest or competition.

Brokerage

A securities company in China that engages in brokerage business must keep the record of every brokerage client’s authorization for a prescribed period, regardless of whether any transaction is executed on behalf of this client.

A securities company in China cannot accept authorisations to engage in discretionary securities trading on its customer’s account, including, for example, deciding the type, quantity and price of securities to buy or sell for its customers.

Proprietary Trading

According to the PRC Regulations on Supervision and Administration of Securities Companies (證券公司監督管理條例) and the Provisions on the Scope of Investment and Related Matters of Securities Companies’ Proprietary Trading Business (關於證券公司證券自營業務投資範圍及有關事項的規定), a securities company in China is permitted to engage in proprietary trading of domestic publicly traded stocks, certain types of bond products traded on the interbank market, as well as OTC traded securities products approved by or filed with the CSRC. It is also allowed to trade in other financial products and invest in the equity of non-publicly traded companies through its subsidiaries established for such purposes. Securities companies in China must conduct their proprietary trading business in their own name and using their own funds or funds lawfully raised.

Asset Management

Asset management business in China is governed by the following rules and regulations: the Regulations on Supervision and Administration of Securities Companies (證券公司監督管理條例), the Trial Measures for Client Assets Management Business of Securities (證券公司客戶資產管理業務試行辦法), the Detailed Implementing Rules

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for Specific Assets Management Business of Securities Companies (Trial) (證券公司定向資產管理業務實施細則 (試行)) and the Detailed Implementing Rules for Collective Assets Management Business of Securities Companies (Trial) (證券公司集合資產管理業務實施細則 (試行)).

A securities company may charge asset management fee according to the agreements it enters into with customers. Customers bear the profits and losses generated from investments made by a securities company on their behalf. Upon approval of the CSRC, a securities company is allowed to engage in asset management businesses, including TAM, CAM and SAM.

Investment Advisory

A securities company is required to obtain a permit in order to engage in securities investment advisory business. To engage in securities investment advisory business, a securities professional must obtain the necessary qualifications and be employed by a company qualified to offer securities investment advisory services.

Underwriting and Sponsorship

To participate in securities offerings, a securities company must apply to the CSRC for sponsorship qualification and comply with the CSRC requirements with respect to securities offerings as well as the rules of stock exchanges and securities registration and clearing institutions. A securities company shall submit offering and underwriting plans to the CSRC prior to engaging in any underwriting activities.

Margin Financing and Securities Lending

A securities company that engages in margin financing and securities lending business shall, in its own name, open at securities registration and clearing institutions a special securities lending account, a securities guaranty account for customers' credit, a securities settlement account for credit transactions and a fund settlement account for credit transactions. In addition, it is required to open at commercial banks a special fund financing account and a fund guaranty account for customers' credit transactions. The funds and securities that a securities company can lend to its customers are limited to those held in its special fund financing account and special securities lending account.

Direct Investment

A securities company is required to obtain a no objection letter from the CSRC and establish a subsidiary to engage in direct investment activities. The subsidiary is allowed to engage in the following activities with the approval of the CSRC: making equity investments in domestic enterprises with its own capital, providing financial advisory services to customers relating to equity investment, establishing direct investment funds, raising and managing customer funds to engage in equity investment and investing idle capital in securities with low risk and high liquidity, such as publicly issued treasury, investment-grade corporate bonds, monetary market funds and central bank bills, as well as CAM plans and SAM plans. The subsidiary's direct investment activities are subject to certain restrictions and other regulatory requirements, including a requirement that the total amount of proprietary investments in such subsidiary cannot be more than 15% of the securities company's net capital.

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Stock Index Futures

According to the Guidelines for Securities Companies to Participate in Stock Index Futures Trading (證券公司參與股指期貨交易指引), securities companies are allowed to (1) engage in proprietary trading of stock index futures for hedging purposes and (2) trade stock index futures as part of their asset management business.

Futures Brokerage

A futures company is required to obtain permits from the CSRC to engage in commodity and securities futures businesses, including futures brokerage in China and outside China, futures investment advisory business and other brokerage businesses prescribed by the CSRC. Futures companies in China trade futures in their own name for their customers and cannot engage in proprietary trading of futures.

Under PRC law, one person or entity cannot beneficially hold equity interests in more than two futures companies or controlling interest in more than one futures company.

Fund Management

A securities investment fund management company in China has to obtain approvals from the CSRC to engage in any fund raising activities or sales of fund interests. Under the PRC law, a person or entity cannot beneficially hold equity interests in more than two fund management companies or controlling interests in more than one fund management company in China. In addition, capital contributions made by the major shareholder of a securities investment fund management company that is established in the PRC shall not exceed 49% of such company's total capital contributions, except for the capital contributions made by the PRC shareholders of a Sino-foreign securities investment fund management joint venture.

QDIIs

A QDII may designate a foreign securities service institution to buy and sell securities on its behalf. The CSRC and the SAFE are responsible for supervising and managing the foreign securities investment by QDIIs.

Internal Control and Risk Management

Securities companies in China are required to establish effective internal control mechanisms and internal control systems to evaluate the effectiveness of their internal control on a regular basis. They also need to establish a dynamic net capital monitoring mechanism in line with the changing business environment to comply with the regulatory requirements for net capital. A securities company shall operate independently from its shareholders, beneficial owners and related parties with respect to its assets, finance, personnel, business and structure. In addition, a securities company shall establish a comprehensive system for risk identification, evaluation and control. It shall employ various means, including sensitivity analysis, to constantly monitor credit risk, market risk, liquidity risk, operational risk, technical risk, policy and regulatory risk and moral risk.

Classified Supervision

Based on evaluation results of risk management capabilities, competitiveness and status of regulatory compliance, the CSRC categorises PRC securities companies into five classes and 11 levels, i.e. Class A (AAA, AA, A), Class B (BBB, BB, B), Class C (CCC, CC, C), Class D and Class E.

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Companies under Category A have the best risk management capabilities in the industry and have better control of risks in new businesses and products;

Companies under Category B have good risk management capabilities in the industry and have better control of risks in business expansion in the midst of market changes;

Companies under Category C have risk management capabilities that match their existing businesses;

Companies under Category D have low risk management capabilities and their potential risks may exceed their capacities; and

For companies under Category E, their potential risks have become real risks and risk control measures have been imposed on them.

The CSRC implements various risk control standards and risk capital reserves calculation ratios for securities companies at different classes and levels. It takes into account the class and level of a securities company when determining resource allocation and examination frequencies and granting licenses for additional businesses and branches. In addition, China Securities Investor Protection Fund Limited Corporation determines the ratio of operating income to be contributed by a securities company to the securities investor protection fund based on its class and level.

Risk Control Indices

The Risk Control Index Measures set forth the standards for securities companies to calculate their net capital and risk capital reserves and prepare net capital calculation sheets, risk capital reserves calculation sheets and risk control index supervision statements. Net capital is a measure of risk-adjusted net assets, measured by subtracting from net assets the risk adjustments required to be made to a securities company's financial assets, other assets and contingent liabilities, and further adding or subtracting any other adjustments determined or authorised by the CSRC. A securities company is required by the Risk Control Index Measures to maintain a minimum level of net capital that varies based on its business activities. In regulating the activities of China's securities companies, the CSRC has established both a warning ratio and a required ratio for certain risk control index standards. Failure to meet these ratios may cause the CSRC to take certain measures, as detailed under "— Regulatory Measures". Securities companies are required to meet the following key risk control index standards:

	<u>Warning Ratio⁽¹⁾</u>	<u>Required Ratio</u>
Net capital ⁽²⁾ / total risk capital reserves ⁽³⁾ (%)	≥120%	≥ 100%
Net capital / net assets (%)	≥ 48%	≥ 40%
Net capital / total liabilities ⁽⁴⁾ (%)	≥ 9.6%	≥ 8%
Net assets / total liabilities ⁽⁴⁾ (%)	≥ 24%	≥ 20%
Value of equity securities and derivatives held / net capital (%)	≤ 80%	≤ 100%
Value of fixed income securities held / net capital (%)	≤ 400%	≤ 500%

(1) Warning ratios are set by the CSRC as follows, according to the Risk Control Index Measures: If the risk control index is required to stay above a certain level, then the warning ratio is 120% of the stipulated minimum requirement, and if the risk control index is required to stay below a certain level, then the warning ratio is 80% of the stipulated maximum requirement.

(2) Net capital is measured by subtracting from net assets the risk adjustments required to be made to a securities company's financial assets, other assets and contingent liabilities, and further adding or subtracting any other adjustments determined or authorised by the CSRC.

(3) Please see "— Risk Capital Reserves" for an explanation of how total risk capital reserves are calculated.

(4) For purposes of calculating the risk control index, total liabilities do not include accounts payable to clients.

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The CSRC may adjust the risk control index standards for a securities company and risk capital reserves calculation ratio for certain business lines based on such company's governance structure, internal control standards and risk control. The CSRC and its local counterparts inspect the generation of the risk control data of securities companies and supervise the authenticity, accuracy and completeness of such data. They may require a securities company to engage certified public accountants with relevant securities qualifications to audit its monthly net capital calculation sheets, risk capital reserves calculation sheets and risk control index supervision statements.

Securities Investor Protection Fund

Securities companies registered in China are required to contribute 0.5% to 5% of their operating income to a securities investor protection fund, which is managed by China Securities Investor Protection Fund Limited Corporation.

Risk Capital Reserves

The Risk Control Index Measures and the Provisions on Standards for the Calculation of Risk Capital Reserves of Securities Companies (關於證券公司風險資本準備計算標準的規定) set out different criteria for the calculation of risk capital reserves based on a securities company's businesses. In addition, a securities company's risk capital reserve is also affected by its previous year's operating expenses, the number of its branches, and the results of the CSRC's evaluation of its risk management capabilities, competitiveness and status of regulatory compliance.

Regulatory Measures

The CSRC may designate a special on-site risk control supervisory team to a securities company to inspect and supervise its capital allotment, assets disposals, personnel allocations, execution and implementation of contracts, and report to local government on a timely basis when necessary.

If a securities company violates the regulatory requirements for net capital or other risk control indices and fails to rectify the violation within a prescribed time limit, or if its violation seriously endangers its business operations or the legal rights and interests of its clients, the CSRC may take the following administrative or regulatory measures:

- limitation or suspension of existing business activities and suspension of approval of new businesses;
- suspension of approval of establishment or acquisition of new operational branches;
- limitations on dividend distribution and provision of remuneration or benefits to directors, supervisors and senior management;
- limitations on transfer of assets or creation of encumbrances on the assets;
- demanded replacement of directors, supervisors or senior management or limitation on their rights;
- demanded transfer of equity interest held by controlling shareholders or limitations on exercise of their shareholders' rights;
- revocation of business permits;

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- suspension of business for rectification;
- handing over the company to a trustee;
- taking over the company; and
- administrative reorganization of the business.

The CSRC may wind up a securities company if, after the implementation of business suspension for rectification, demanded take-over or administrative reorganization, such company remains incapable of resuming ordinary business operations within the stipulated time limit and either (1) it is unable to pay off its debts due, and its assets are insufficient to pay off its debts or it clearly demonstrates a lack of liquidity, or (2) it has to use money in its account at the securities investor protection fund to pay off its debts.

Corporate Governance

Securities companies must comply with the corporate governance requirements set forth by the PRC Company Law, the PRC Securities Law, the Regulations on Supervision and Administration of Securities Companies (證券公司監督管理條例), the Governance Standards of Securities Companies (證券公司治理準則 (試行)), the Guidelines for the Internal Control of Securities Companies (證券公司內部控制指引) and the Notice Concerning the Review of Internal Control of Securities Companies (關於做好證券公司內部控制評審工作的通知), relating to the composition, functioning, convening and voting procedures of the shareholder's meeting, the board of directors and the supervisory committee.

Independent Directors

The CSRC requires a securities company to appoint independent directors who do not hold any other positions in the company or have relationships with the company that may affect their independent and objective judgment.

Board Committees

For securities companies that engage in two or more of the businesses of securities brokerage, assets management, margin financing and securities lending and securities underwriting and sponsorship, their board of directors shall set up a remuneration and nomination committee, an audit committee and a risk control committee, to exercise the relevant functions and powers specified in the articles of association. In accordance with the relevant PRC regulatory requirements, where the board of directors of a securities company sets up committee for remuneration and nomination and auditing, such committees shall be chaired by independent directors.

Cumulative Voting System

Securities companies are encouraged to adopt a cumulative voting system for the election of directors (including independent directors) and supervisors. If any shareholder of a listed securities company individually or jointly with related parties hold more than 30% of the equity interest of such company, it shall adopt a cumulative voting system in the election of directors (including independent directors) and supervisors. Any securities company adopting the cumulative voting system shall specify detailed implementing rules of such system in its articles of association.

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Qualifications of Directors, Supervisors and Senior Management

According to the Measures for the Supervision and Administration of the Qualifications of Directors, Supervisors and Senior Managers of Securities Companies (證券公司董事、監事和高級管理人員任職資格監管辦法), directors, supervisors and senior management of a securities company shall possess the qualifications certified by the CSRC before taking office. The CSRC requires an audit to be performed on any director and senior management of a securities company upon their departure from such company.

Information Disclosure

In addition to complying with the information disclosure requirement set forth in the Circular on the Relevant Issues Regarding the Information Disclosure by Securities Companies (關於證券公司信息公示有關事項的通知), securities companies listed in China are also required to comply with information disclosure requirements of the CSRC and the stock exchanges, including publishing annual, semi-annual and quarterly reports, disclosing information which may materially affect the stock price and announcing other company related matters.

The Provisions on Strengthening the Supervision and Administration of Listed Securities Companies (關於加強上市證券公司監管的規定) set forth additional disclosure requirements for regular reports and interim reports of listed securities companies. It also requires a listed securities company to establish a comprehensive information management system, taking into account the characteristics of the China securities industry, the company's own conditions and the regulatory disclosure requirements for listed companies in general.

Anti-Money Laundering

The principal anti-money laundering laws and regulations in China include the Anti-money Laundering Law (中華人民共和國反洗錢法), the Anti-money Laundering Regulations for Financial Institutions and the Measures on the Administration of Client Identity Identification and Materials and Transaction Recording of Financial Institutions (金融機構客戶身份識別和客戶身份資料及交易記錄保存管理辦法). Under these laws and regulations, securities companies are required to categorise clients according to the level of risks they represent, and establish and maintain internal rules on the management of client risk classification systems.

Foreign Funded Securities Companies

The Rules for the Establishment of Securities Companies with Foreign Equity Participation (外資參股證券公司設立規則) set forth various requirements for foreign-funded securities companies with respect to their establishment, business scope, shareholders' qualifications and ownership percentage and approval procedures. Pursuant to the rules, overseas and domestic shareholders may apply to establish a new foreign-funded securities companies, or to convert an existing domestic securities company to a foreign-funded securities companies.

The CSRC regulates foreign-funded securities companies. With CSRC approval, a securities company with foreign investment may engage in underwriting and sponsoring of shares (including RMB-denominated ordinary shares and foreign shares) and bonds (including government and corporate bonds), brokerage of bonds and foreign shares and proprietary trading of bonds (including government and corporate bonds), and other businesses approved by the CSRC.

Sino-foreign Joint Venture Fund Management Companies

According to the Measures for the Administration of Securities Investment Fund Management Companies (證券投資基金管理公司管理辦法) and the Notice regarding certain issues with respect to the implementation of the

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Measures for the Administration of Securities Investment Fund Management Companies (以及《關於實施〈證券投資基金管理公司管理辦法〉若干問題的通知》), the proportion of the total capital contribution made or equity interests held by foreign investors in a Sino-foreign fund management joint venture, either directly or indirectly, shall not exceed 49% of the total equity of such joint venture.

HONG KONG REGULATORY OVERVIEW

Introduction

The SFO is the primary legislation regulating the securities and futures industry in Hong Kong, including the regulation of securities, futures and leveraged foreign exchange markets, intermediaries and their conduct of regulated activities and the offering of investments to the public in Hong Kong. The SFO is administered by the SFC which is a statutory regulatory body in Hong Kong.

The SFO prescribes ten types of regulated activities. They are:

- Type 1:* dealing in securities;
- Type 2:* dealing in futures contracts;
- Type 3:* leveraged foreign exchange trading;
- Type 4:* advising on securities;
- Type 5:* advising on futures contracts;
- Type 6:* advising on corporate finance;
- Type 7:* providing automated trading services;
- Type 8:* securities margin financing;
- Type 9:* asset management; and
- Type 10:* providing credit rating services.

The SFO provides for a single licensing regime under which a person needs only one licence to carry on different types of regulated activities.

As at the Latest Practicable Date, the following Group companies are licensed under the SFO:

- CITIC Securities Brokerage (HK) Limited (licensed for Types 1 and 4 regulated activities)
- CITIC Securities Futures (HK) Limited (licensed for Type 2 regulated activity)
- CITICS CF Hong Kong (licensed for Types 1, 4 and 6 regulated activities)
- CITIC Securities International Investment Management (HK) Limited (licensed for Types 4 and 9 regulated activities)

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Overview of Licensing Requirements

Under the SFO, any person who:

- (a) carries on a business in a regulated activity; or
- (b) holds itself out as carrying on a business in a regulated activity

must be licensed under the relevant provisions of the SFO to carry on that regulated activity, unless one of the exceptions under the SFO applies.

Further, if a person actively markets (whether in Hong Kong or from a place outside of Hong Kong) to the public in Hong Kong any services that it provides and such services, if provided in Hong Kong, would constitute a regulated activity, then that person will also be subject to the licensing requirements under the SFO.

In addition to the licensing requirements on corporations, any individual who:

- (a) performs any regulated function in relation to a regulated activity carried on as a business; or
- (b) holds himself out as performing such regulated function,

must separately be licensed under the SFO as a licensed representative accredited to his principal.

For each regulated activity conducted by a licensed corporation, it must appoint at least two responsible officers, at least one of whom must be an executive director, to supervise the business of the regulated activity. A responsible officer is an individual approved by the SFC to supervise the regulated activity or activities of the licensed corporation to which he is accredited. In addition, every director of the licensed corporation who actively participates in or is responsible for directly supervising its regulated activity or activities must apply to the SFC to become a responsible officer.

Fit and Proper Requirement

Each applicant for a licence under the SFO must satisfy the SFC requirement that, among other things, it is a fit and proper person to be licensed to carry on the regulated activity in question.

In considering whether an applicant is a fit and proper person to be licensed under the SFO, the SFC will have regard to:

- (a) the financial status or solvency of the applicant;
- (b) the educational or other qualifications or experience of the applicant having regard to the nature of the functions to be performed;
- (c) the ability of the applicant to carry on the regulated activity competently, honestly and fairly; and
- (d) the reputation, character, reliability and financial integrity of the applicant and, where the applicant is a corporation, any officer of the applicant.

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In considering the fitness and properness of a corporate applicant, the SFC will also take into account, among other things:

- (a) whether the applicant has established effective internal control procedures and risk management systems to ensure compliance with all applicable regulatory requirements;
- (b) the state of affairs of any other business which the applicant carries on or proposes to carry on; and
- (c) any information in the possession of the SFC relating to:
 - any substantial shareholder or officer of the applicant;
 - any person who is or is to be employed by, or associated with, the applicant for the purposes of the regulated activity in question;
 - any person who will be acting for or on behalf of the applicant in relation to the regulated activity in question; and
 - any other corporation in the same group of companies as the applicant, and any substantial shareholder or officer of any such intra-group company.

Key On-Going Obligations of Licensed Corporations

Licensed corporations, licensed representatives and responsible officers must remain fit and proper at all times. They are required to comply with all applicable provisions of the SFO and its subsidiary rules and regulations as well as the codes and guidelines issued by the SFC.

Outlined below are some of the key on-going obligations of a licensed corporation:

- maintenance of minimum paid-up share capital and liquid capital, and submission of financial returns to the SFC, in accordance with the requirements under the Securities and Futures (Financial Resources) Rules (as discussed in more detail below);
- maintenance of segregated account(s), and custody and handling of client securities in accordance with the requirements under the Securities and Futures (Client Securities) Rules;
- maintenance of segregated account(s), and holding and payment of client money in accordance with the requirements under the Securities and Futures (Client Money) Rules;
- issue of contract notes, statements of account and receipts, in accordance with the requirements under the Securities and Futures (Contract Notes, Statements of Account and Receipts) Rules;
- record keeping requirements prescribed under the Securities and Futures (Keeping of Records) Rules;
- submission of audited accounts and other required documents in accordance with the requirements under the Securities and Futures (Accounts and Audit) Rules;
- payment of annual fees and submission of annual returns to the SFC, within one month after each anniversary date of the licence;

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- maintenance of insurance against specific risks for specified amounts in accordance with the requirements under the Securities and Futures (Insurance) Rules;
- notification to the SFC of certain changes and events, in accordance with the requirements under Securities and Futures (Licensing and Registration) (Information) Rules;
- implementation of appropriate policies and procedures relating to customer acceptance, customer due diligence, record keeping, identification and reporting of suspicious transactions and staff screening, education and training, in accordance with the requirements under the Prevention of Money Laundering and Terrorist Financing Guidance Note issued by the SFC (as discussed in more detail below); and
- business conduct requirements under the Code of Conduct for Persons Licensed by or Registered with the SFC, the Management, Supervision and Internal Control Guidelines for Persons Licensed by or Registered with the SFC and other applicable codes and guidelines issued by the SFC.

Securities and Futures (Financial Resources) Rules (“Financial Resources Rules”)

Subject to certain exemptions described below, a licensed corporation is required to maintain minimum paid-up share capital of:

- HK\$5,000,000 — in the case of: (i) a corporation licensed for Type 1 regulated activity that does not provide securities margin financing; (ii) a corporation licensed for Type 2 or Type 7 regulated activity; (iii) a corporation licensed for Type 3 regulated activity that is an approved introducing agent; (iv) a corporation licensed for Type 4, Type 5, Type 9 or Type 10 regulated activity that is not subject to the licensing condition that it shall not hold client assets; or (v) a corporation licensed for Type 6 regulated activity that is subject to the no sponsor work licensing condition (but is not subject to the licensing condition that it shall not hold client assets);
- HK\$10,000,000 — in the case of: (i) a corporation licensed for Type 1 regulated activity that provides securities margin financing; (ii) a corporation licensed for Type 8 regulated activity; or (iii) a corporation licensed for Type 6 regulated activity that is not subject to the no sponsor work licensing condition; or
- HK\$30,000,000 — in the case of a corporation licensed for Type 3 regulated activity that is not an approved introducing agent.

There is no minimum paid-up share capital requirement if the corporation is: (i) licensed for Type 1 regulated activity and is an approved introducing agent or a trader; (ii) licensed for Type 2 regulated activity and is an approved introducing agent, a trader or a futures non-clearing dealer; (iii) licensed for Type 4, Type 5, Type 9 or Type 10 regulated activity that is subject to the licensing condition that it shall not hold client assets; and/or (iv) licensed for Type 6 regulated activity that is subject to both the licensing condition that it shall not hold client assets and the no sponsor work licensing condition.

Pursuant to the Financial Resources Rules, a licensed corporation shall also maintain minimum liquid capital of the higher of the amount of (a) and (b) below:

- (a) the amount of:
- HK\$100,000 — in the case of a corporation licensed for Type 4, Type 5, Type 6, Type 9 or Type 10 regulated activity that is subject to the licensing condition that it shall not hold client assets;

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- HK\$500,000 — in the case of: (i) a corporation licensed for Type 1 regulated activity that is an approved introducing agent or trader; or (ii) a corporation licensed for Type 2 that is an approved introducing agent, a trader or a futures non-clearing dealer; or
- HK\$3,000,000 — in the case of: (i) a corporation licensed for Type 1 regulated activity that is not an approved introducing agent or a trader; (ii) a corporation licensed for Type 2 that is not an approved introducing agent, a trader or a futures non-clearing dealer; (iii) a corporation licensed for Type 3 regulated activity that is an approved introducing agent; (iv) a corporation licensed for Type 4, Type 5, Type 6, Type 9 or Type 10 regulated activity that is not subject to the licensing condition that it shall not hold client assets; or (v) a corporation licensed for Type 7 or Type 8 regulated activity; or
- HK\$15,000,000 — in the case of a corporation licensed for Type 3 regulated activity that is not an approved introducing agent; and

(b) its variable required liquid capital, as defined in the Financial Resources Rules.

If the licensed corporation is licensed for more than one type of regulated activity, the minimum paid-up share capital and liquid capital that the corporation should maintain shall be the highest amount required amongst those regulated activities.

Anti-Money Laundering and Terrorist Financing

Licensed corporations are also required to comply with applicable anti-money laundering laws and regulations in Hong Kong, as well as the Prevention of Money Laundering and Terrorist Financing Guidance Note (“**Guidance Note**”) issued by the SFC.

We set out below a brief summary of the principal legislation concerned with money laundering and terrorist financing in Hong Kong.

- (1) The Drug Trafficking (Recovery of Proceeds) Ordinance (Chapter 405 of the Laws of Hong Kong) (“**DTROP**”)

Among other things, the DTROP contains provisions for the investigation of assets suspected to be derived from drug trafficking activities, the freezing of assets on arrest and the confiscation of the proceeds from drug trafficking activities. It is an offence under the DTROP if a person deals with any property knowing or having reasonable grounds to believe it to represent the proceeds of drug trafficking. The DTROP requires a person to report to an authorised officer if he knows or suspects that any property represents the proceeds of drug trafficking or is intended to be used or was used in connection with drug trafficking, and failure to make such disclosure constitutes an offence under the DTROP.

- (2) The Organised and Serious Crime Ordinance (Chapter 455 of the Laws of Hong Kong) (“**OSCO**”)

Among other things, the OSCO empowers officers of the Police and the Customs and Excise Department to investigate organised crime and triad activities, and it gives the courts jurisdiction to confiscate the proceeds of organised and serious crimes, to issue restraint orders and charging orders in relation to the property of defendants of specified offences. The OSCO extends the money laundering offence to cover the proceeds of all indictable offences in addition to drug trafficking.

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(3) United Nations (Anti-Terrorism Measures) Ordinance (Chapter 575 of the Laws of Hong Kong) (“UNATMO”)

Among other things, the UNATMO provides that it would be a criminal offence to: (i) provide or collect funds with the intention or knowledge that the funds will be used to commit one or more terrorist acts; or (ii) make any funds or financial (or related) services available to or for the benefit of a person knowing that, or being reckless as to whether, such person is a terrorist or terrorist associate. The UNATMO also requires a person to report his knowledge or suspicion of terrorist property to an authorised officer, and failure to make such disclosure constitutes an offence under the UNATMO.

The Guidance Note sets out the steps that a licensed corporation and its representatives should implement to discourage and identify any money laundering or terrorist financing activities. Under the Guidance Note, licensed corporations should, among other things:

- develop customer acceptance policies and procedures to identify the types of customers that are likely to pose a higher than average risk of money laundering and terrorist financing;
- take all reasonable steps to establish the true and full identity of each customer, and of each customer’s financial situation and investment objectives;
- ensure compliance with all applicable record keeping requirements and maintain such records that are sufficient to permit reconstruction of individual transactions; and
- conduct ongoing monitoring for identification of suspicious transactions and ensure compliance with their legal obligations of reporting funds or property known or suspected to be proceeds of crime or terrorist property to the Joint Financial Intelligence Unit, a unit jointly run by the Hong Kong Police Force and the Hong Kong Customs & Excise Department to monitor and investigate suspected money-laundering.