

Legal and Regulatory Framework

A. Legal Tradition

The legal system in Hong Kong, China is similar to the common law system used in the United Kingdom and is defined by the Basic Law of Hong Kong, in which the common law is supplemented by local legislation.

B. English Translation

The Government of the Hong Kong Special Administrative Region of the PRC, its policy bodies, and regulatory authorities all officially publish laws, regulations, and notices in both traditional Chinese and English. As such, an English translation does not apply.

C. Legislative Structure

Hong Kong, China features a multitiered legislative structure to govern the securities markets, guided by the Basic Law of Hong Kong.

- [1st tier] Basic Law of Hong Kong
- [2nd tier] Ordinances and subsidiary legislation (key legislation for the securities market)
- [3rd tier] Guidance materials, including codes and guidelines issued under key legislation
- [4th tier] Nonlegislative rules and guidance materials issued by market institutions, and frequently asked questions (FAQs) and circulars issued by regulators)

Table 2.1 illustrates the legislative structure mentioned above by giving significant examples of relevant securities market legislation for each of the individual tiers.

“Key legislation” is the summary term for those laws specifically aimed at a particular market, such as the securities market. These laws establish and govern the securities market, including the bond market, its institutions, and participants. These laws are enacted by the Legislative Council and take effect upon publication in the Government of the Hong Kong Special Administrative Region Gazette, unless a provision is made for them to commence on another day. The Securities and Futures Ordinance (SFO) (Cap. 571 of the Laws of Hong Kong), the Companies (Winding Up and Miscellaneous Provisions) Ordinance (CWUMPO) (Cap. 32 of the Laws of Hong Kong) and the Companies Ordinance (CO) (Cap. 622 of the Laws of Hong Kong) represent the key primary legislation for the Hong Kong bond market.

Table 2.1: Examples of Securities Market Legislation by Legislative Tier

Legislative Tier	Content or Significant Examples
Basic Law of Hong Kong	Principles, Rights, and Obligations
Ordinances and subsidiary legislation (key legislation, as amended)	<ul style="list-style-type: none"> • Securities and Futures Ordinance (Cap. 571) and subsidiary legislation made under it • Public Finance Ordinance (Cap. 2) • Companies Ordinance (Cap. 622) • Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) • Trustee Ordinance (Cap. 29) • Exchange Fund Ordinance (Cap. 66) • Banking Ordinance (Cap. 155) • Payment Systems and Stored Value Facilities Ordinance (Cap. 584) • Inland Revenue and Stamp Duty Legislation (Alternative Bond Schemes) (Amendment) Ordinance 2013
Codes and guidelines	<ul style="list-style-type: none"> • Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (issued by the SFC) • Code of Conduct for Persons Providing Credit Rating Services (issued by the SFC) • Guidelines on Use of Offer Awareness and Summary Disclosure Materials in Offerings of Shares and Debentures under the Companies Ordinance (Cap. 32) (SFC) • Guideline No. 6.2.2B Recognized Credit Rating Agencies for Regulatory Purposes (issued by the HKMA)
Nonlegislative rules and guidance materials (e.g., circulars and FAQs)	<ul style="list-style-type: none"> • Circular to Licensed Corporations on Distribution of bonds listed under Chapter 37 of the Main Board Listing Rules and local unlisted private placement bonds (issued by the SFC) • Main Board Listing Rules (issued by SEHK) • Trading Rules (issued by SEHK)

HKMA = Hong Kong Monetary Authority, SEHK = The Stock Exchange of Hong Kong Limited, SFC = Securities and Futures Commission.

Source: Compiled by ADB Consultants for SF1 and based on publicly available information.

Codes and guidelines are issued by the regulatory authorities charged with the overall supervision and governance of the securities and banking system, which are the Securities and Futures Commission (SFC) and the HKMA. The SFC issues codes of conduct under section 169 of the SFO for the purpose of giving guidance relating to the practices and standards with which intermediaries and their representatives are expected to comply. The SFC also issues codes and guidelines under section 399 to provide guidance in relation to the exercise of its statutory functions and for the furtherance of its regulatory objectives.³ The HKMA issues guidelines to govern authorized financial institutions and their activities, and on specific subjects concerning the market.

Nonlegislative rules and guidance materials are issued by the regulatory authorities (HKMA and SFC) and market institutions (e.g., SEHK) for the activities and market participants under their respective purviews. The nonlegislative rules of the market institutions provide for the operation of the market or facilities that the market

³ Securities and Futures Commission. Codes and Guidelines. <http://en-rules.sfc.hk>

institutions operate. The regulatory authorities' guidance materials (e.g., circulars and FAQs) remind industry participants of the relevant requirements and help them understand specific regulatory issues.

D. Hong Kong Bond Market Regulatory Structure

The bond market in Hong Kong, China, is governed by the relevant laws, codes, guidelines, and circulars issued, administered, and enforced by the SFC, HKMA, as well as the nonlegislative rules issued by the market institutions owned by HKEX. There is no separate self-regulatory organization (SRO) governing the participants of the bond market in Hong Kong, China.

1. Securities and Futures Commission

The principal regulator of Hong Kong's securities market is the SFC, which is an independent statutory body established in 1989 by the Securities and Futures Commission Ordinance (SFCO). The SFCO and nine other securities and futures-related ordinances were consolidated into the SFO, which came into effect on 1 April 2003.

The SFC is responsible for administering the laws governing the securities and futures market in Hong Kong. Its regulatory objectives as set out in the SFO include

- i. maintaining and promoting the fairness, efficiency, competitiveness, transparency, and orderliness of the securities and futures industry;
- ii. promoting understanding by the public of financial services including the operation and functioning of the securities and futures industry;
- iii. providing protection for members of the public investing in or holding financial products;
- iv. minimizing crime and misconduct in the securities and futures industry;
- v. reducing systemic risks in the securities and futures industry; and
- vi. assisting the Financial Secretary in maintaining the financial stability of Hong Kong, China by taking appropriate steps in relation to the securities and futures industry.

In addition to regulating market institutions owned by the HKEX (see below for more information), listed companies,⁴ and the Federation of Share Registrars,⁵ the SFC oversees corporations and banks (known as Licensed Corporations and Registered Institutions), and the individuals carrying out the following regulated activities as set out in Schedule 5 to the SFO; those with direct relevance to the bond market are indicated by an asterisk:

⁴ While the SFC administers the requirements relating to the disclosure of inside information under Part XIVA of the SFO, vets listing application materials under the dual-filing regime, administers the Takeovers Code, and carries out surveillance of listed companies for limited purposes, SEHK remains the frontline regulator of listed companies for most matters.

⁵ Currently, the SFC does not directly regulate (or approve) share registrars. Instead, it approves the Federation of Share Registrars whose members shall be approved share registrars and are subject to the requirements of the Code of Conduct for Share Registrars. For more details, see Part 4 of the Stock Market Listing Rules (Cap. 571V). Section 101AAO(2)(g) and (h) of the Securities and Futures and Companies Legislation (Uncertificated Securities Market Amendment) Ordinance 2015, which has yet to commence, will enable the SFC to make rules to authorize and directly regulate share registrars.

- (i) dealing in securities,*
- (ii) dealing in futures contracts,
- (iii) leveraged foreign exchange trading,
- (iv) advising on securities,*
- (v) advising on futures contracts,
- (vi) advising on corporate finance,*
- (vii) providing automated trading services,*
- (viii) securities margin financing,*
- (ix) asset management,* and
- (x) providing credit rating services.*

Furthermore, the SFO, the CWUMPO, and the CO empower the SFC to supervise and regulate the following:

- i. the issuance of prospectuses offering shares in or debentures of a company to the public, and the publication of advertisements concerning such prospectuses (regulated under Parts II and XII of the CWUMPO);
- ii. the buy-back by a corporation of its own shares and the giving of financial assistance by a corporation for the acquisition of its own shares (regulated under Part 5 of the CO);
- iii. recognized exchange companies (SEHK and Hong Kong Futures Exchange Limited [HKFE]) owned by HKEX (regulated under Part III of the SFO);
- iv. recognized exchange controllers (HKEX) (regulated under Part III of the SFO);
- v. recognized clearinghouses (Hong Kong Securities Clearing Company Limited [HKSCC], HKFE Clearing Corporation Limited [HKCC], SEHK Options Clearing House Limited, and the OTC Clearing Hong Kong Limited [OTC Clear]) (regulated under Part III of the SFO);
- vi. recognized investor compensation company (Investor Compensation Company Limited) (regulated under Part III of the SFO); and
- vii. persons authorized by the SFC to provide automated trading services (ATS) (regulated under Part III of the SFO).

By law, any person carrying on a business in a regulated activity (e.g., dealing in securities or in futures contracts) in Hong Kong, China has to be licensed by or registered with the SFC.

2. Hong Kong Monetary Authority

The HKMA is Hong Kong, China's de facto central bank. The HKMA was established on 1 April 1993 by merging the Office of the Exchange Fund with the Office of the Commissioner of Banking. Its main functions and responsibilities are governed by the Exchange Fund Ordinance and the Banking Ordinance, and it reports to the Financial Secretary.

The HKMA is the government authority in Hong Kong, China responsible for maintaining monetary and banking stability. Its main functions are

- maintaining currency stability within the framework of the Linked Exchange Rate System;

- promoting the stability and integrity of the financial system, including the banking system;
- helping maintain Hong Kong, China's status as an international financial center, including the maintenance and development of Hong Kong's financial infrastructure; and
- managing the Exchange Fund.

The HKMA solely operates the CMU, which provides clearing, settlement, and depository services for both HKD-denominated and international debt securities available for trading in the Hong Kong bond market. The HKMA, through the RMB Liquidity Facility, also provides liquidity support to Authorized Institutions participating in renminbi business in Hong Kong, China.⁶

The HKMA has developed external infrastructure linkages with other regional and international central securities depositories (ICSDs) to settle securities lodged with the CMU.

The HKMA is also the front-line regulator to supervise the regulated activities (as defined under the SFO) conducted by Registered Institutions (which includes banks) and their individuals who are engaged in such activities.

Hong Kong Monetary Authority Guidelines and Circulars

To organize, direct, and govern the banking industry and the bond market, the HKMA issues guidelines and circulars, and prescribes codes of conduct for the market participants under its remit. The guidelines and circulars cover particular market segments, such as the CMU or the repo business, types of instruments (e.g., debt securities or derivatives), and other specific subjects (e.g., disclosure). Guidelines and circulars are also issued to interpret and expand on laws and regulations, including but not limited to the operational aspects of the CMU and its participants.

Hong Kong, China as an International Financial Center

In support of the policies for the further development of Hong Kong, China as an international financial center and maintenance of the stability and integrity of its financial system, the HKMA, in cooperation with other relevant authorities and organizations as appropriate, is responsible for

- promoting confidence in Hong Kong, China's monetary and financial systems through active participation in international financial and central banking forums;
- promoting market development initiatives that help strengthen the international competitiveness of Hong Kong, China's financial services, including those on the promotion of Hong Kong, China's development as the global offshore renminbi business hub ; and
- maintenance and development of Hong Kong, China's financial infrastructure.

A specific function of the HKMA under the international financial center remit is the development of the debt market in Hong Kong, China. The HKMA addresses this function through what is referred to as Important Policy Initiatives Affecting the EFBN

⁶ See <http://www.hkma.gov.hk/eng/key-functions/monetary-stability/liquidity-support-to-banks.shtml>

Programme and other Hong Kong Dollar Debt Instruments, which include the following:⁷

- **Seven technical measures to strengthen the currency board arrangements.** The seven measures to strengthen the currency board arrangements introduced on 7 September 1998 provide that no new EFBNs are issued except when there are significant inflows of funds. This arrangement ensures that new issues of EFBNs are fully backed by foreign reserves in accordance with the discipline of the currency board system. Outstanding issues of EFBNs, which are already backed by foreign reserves, are rolled over when they mature.
- **New measures to fine tune currency board arrangements.** Since 1 April 1999, new EFBNs are issued in line with the interest payments on outstanding EFBNs. The measure is consistent with the currency board principle that interest payments on EFBNs are backed by interest income on the US dollar backing assets. This measure allows the amount of EFBNs outstanding to grow gradually and is conducive to the development of the local debt market.
- **Streamlining Issuance of Exchange Fund Bills and Notes and Government Bonds.** The issuance of EFBNs and Government Bonds has been streamlined to minimize overlap in longer tenors. Starting in January 2015, the HKMA stopped new issuance of Exchange Fund Bills (EFBs) with tenors of 3 years or more, while 2-year Exchange Fund Note (EFN) issuance continues. At the same time, new issuance of 2-year Government Bonds has ceased, while issuance of Government Bonds with tenors of 3 years or more continues.

3. Hong Kong Exchanges and Clearing Limited

HKEX is a leading global operator of exchanges and clearinghouses based in Hong Kong, China, and one of the world's largest exchange groups by market capitalization. HKEX operates the securities and derivatives markets (and their related clearinghouses) and is the frontline regulator of listed companies in Hong Kong, China.

In Hong Kong, China, HKEX regulates listed issuers and administers listing, trading, and clearing rules. It also provides services, primarily at the wholesale level, to participants and users of its exchanges and clearinghouses, including issuers and intermediaries (e.g., investment banks or sponsors, securities and derivatives brokers, custodian banks, and information vendors), which service investors directly. These services comprise trading, clearing, and settlement; deposit and nominee services and information services across multiple products and asset classes.

HKEX operates the only recognized stock market and futures market in Hong Kong, China through its wholly owned subsidiaries, SEHK and the Hong Kong Futures Exchange Limited. HKEX also operates four clearinghouses, which are the only recognized clearinghouses in Hong Kong, including HKSCC and OTC Clear. HKSCC provides integrated clearing, settlement, depository, and nominee activities to their participants, while OTC Clear provides clearing and settlement services for OTC derivative transactions. OTC Clear currently provides clearing of inter-dealer interest rate swaps, nondeliverable forwards, and cross-currency swaps. HKEX also provides market data through its data dissemination entity, HKEX Information Services Limited.

⁷ For further information on HKMA policy initiatives, please see <http://www.hkma.gov.hk/eng/key-functions/international-financial-centre/debt-market-development/policy-initiatives-affecting-efbn-programme-other-hk-dollar-debt-instrument.shtml>

The SEHK, a wholly owned subsidiary of HKEX, is a recognized exchange company under the SFO. It operates the stock market in Hong Kong, China and is the primary regulator of SEHK Participants with respect to trading matters (see Rules of the Exchange, which are also known as the Trading Rules) and the frontline regulator of companies listed on the Main Board and the Growth Enterprise Market of SEHK, as well as for the listing of debt securities.⁸

In addition, the Trading Rules require any person who wishes to trade on or through the SEHK's facilities to hold a Trading Right. SEHK Trading Rights are issued at a fee and in accordance with the procedures set out in their respective rules. It is also necessary for the person to be registered as a participant of the relevant exchange (Exchange Participant) in accordance with its rules, including those requiring compliance with all relevant legal and regulatory requirements.

Besides the Main Board Listing Rules and the Trading Rules, SEHK may also issue guidance materials on specific topics. For details on listing- or trading-related rules and guidance, please refer to Sections I. and J. in this chapter, respectively.

HKEX is committed to performing its public duty to promote orderly and fair markets, and ensure that risks are managed prudently, consistent with the public interest in general and the interests of the investing public in particular. HKEX is also committed to working closely with the principal regulator of Hong Kong, China's securities and derivatives markets, the SFC.

E. Regulatory Framework for Debt Securities

The regulatory framework for debt securities in Hong Kong, China is very much influenced by the general regulatory approach that business may be conducted unless it contravenes the Laws of Hong Kong (or regulatory requirements made under such laws). As such, few limitations exist in the bond market, most notably only those with an emphasis for the protection of retail investors.

Hence, one key maxim for the bond market is that all relevant parties for a bond or note issuance may participate freely in the Hong Kong bond market, and transactions in such bonds and notes may be effected, subject to the relevant licensing requirements (see Section I in this chapter for more details). Licensing or registration of market intermediaries (including Licensed Corporations and Registered Institutions) under Part V of the SFO is administered by the SFC and the HKMA (as the case may be) and membership in the CMU is granted by the HKMA as a requirement to settle bond and note transactions in the market. Both market intermediaries and CMU members are subject to certain requirements including fit and proper criteria.

The SFC applies the provisions of the SFO and its related subsidiary legislations, as well as the SFC's codes and guidelines to regulate the regulated activities conducted by market intermediaries. For CMU market intermediaries that are Registered Institutions under the supervision of the HKMA as their front-line regulator, they are also required to observe the CMU Membership Rules and Guidelines issued by the HKMA. In addition, the HKMA also regulates a number of activities that are associated with its supervision of the CMU activities, including the practices for repurchase agreements (repo), short-selling, and securities lending. In turn, the SFC also has requirements relating to short selling and securities borrowing and lending (see sections 170 to 172 of the SFO and Cap. 571R).

⁸ See Chapter 37 of the Main Board Listing Rules.

If debt securities are not offered to the public, issuers do not need to comply with the prospectus-related requirements in the CWUMPO or the authorization requirement in section 103 of the SFO. In addition, unless otherwise stated in the prospectus, offer document, term sheet, or similar such document, there is no restriction on the types of investors who are eligible for investing in particular debt instruments provided that the requirements in the CWUMPO and the SFO are complied with. At the same time, certain bonds that are listed on SEHK are only accessible to professional investors⁹ (as defined in the SFO), constituting the professional bonds segment in the bond market. Offers of debt securities to professional investors must be clearly identified as such.

The offer of debt securities is regulated in the CWUMPO.¹⁰ Registration of prospectus offering unlisted debt securities to the public is subject to the SFC's approval.¹¹ Public offers of debt securities (which do not fall within the definition of structured products¹² under the SFO) by companies are governed by Part II (in case of a company incorporated in Hong Kong) and Part XII (in case of a company incorporated outside Hong Kong) of the CWUMPO. Private placements and offers to professional investors are exempted from the public offer regimes under the CWUMPO (see Section F). The processes particularly relevant for the application for approval and reporting¹³ for debt securities are explained in greater detail in the following section.

For bonds to be listed on the Main Board of SEHK, bond issuers should observe, among others, the Main Board Listing Rules which set out the qualifications for listing, application procedures and requirements, and listing documents and arrangements. For details, please refer to Chapters 22–37 of the Main Board Listing Rules (which can be accessed at http://www.HKEX.com.hk/eng/rulesreg/listrules/mbrules/vol1_4.htm).

Issuers of bonds to be listed on SEHK should observe the Trading Rules promulgated by HKEX (<http://www.HKEX.com.hk/eng/rulesreg/traderules/tradingrules.htm>). Issuers incorporated in Hong Kong, China and those incorporated overseas should also observe the requirements, among others, for the allotment of debentures to be listed set out in sections 44B and 342B of the CWUMPO, respectively.¹⁴

F. Debt Securities Issuance Regulatory Processes

Public offers for corporate bond and note issuances in Hong Kong, China require the approval of the SFC. Bond or note issuances by corporate issuers aimed at professional investors in the Hong Kong bond market do not require an approval from or notice to regulatory authorities. If a listing is sought, SEHK's approval is required. Following issuance, all debt securities to be settled in the Hong Kong bond market need to be admitted to the CMU operated by the HKMA, and listed debt securities may be admitted to the Central Clearing and Settlement System (CCASS) operated by

⁹ According to paragraph 37.58 of the Main Board Listing Rules, these exclude investors prescribed by the rules made under section 397 of the SFO. However, SEHK may grant waivers to allow such investors to participate in the professional investors-only debt issues.

¹⁰ The offer of debt securities is also regulated in section 175 of the SFO. Where an intermediary (licensed for Type 1, 4, or 6 RA) relies on the carve-out in section 103(2)(a) to issue a document (containing an offer of unlisted debentures) without SFC authorization, requirements set out in section 175 must be complied with unless any exemption in section 175(5) applies.

¹¹ For listed debt securities, the SFC has transferred its authorization function under section 38D(3) and (5) and section 342C(3) and (5) of the CWUMPO to SEHK by virtue of the Transfer of Functions-Stock Exchange Company Order (Cap. 571AE).

¹² The definition of "structured products" is set out in section 1A of Schedule 1 to the SFO.

¹³ OTC trades of unlisted bonds do not need to be reported to SEHK. Off-market trades of listed bonds are only required to be reported to SEHK if they are executed by or between Exchange Participants (see Chapter 5 of the SEHK Trading Rules). An authorized ATS provider effecting trades (of listed or unlisted bonds) on its platform may (on a case-by-case basis) be required by the SFC to periodically report the trade statistics to the SFC.

¹⁴ See <http://www.hkllii.hk/eng/hk/legis/ord/32/s44b.html>, <http://www.hkllii.hk/eng/hk/legis/ord/32/s342b.html>

HKSCC.¹⁵ A subsequent listing of bonds and notes on SEHK would be subject to a separate listing approval.

1. Regulatory Processes by Issuer Type

Table 2.2 provides an overview of these regulatory processes by corporate issuer type and identifies which regulatory authority or market institution will be involved. In order to make the issuance processes by issuer type more comparable across ASEAN+3 markets, the table features common issuer type distinctions that are evident in regional markets. Not all markets will distinguish all such issuer types or prescribe approvals. Sovereign issuers are typically exempt from corporate issuance approvals but, at the same time, may be subject to different regulatory processes.

Table 2.2: Authorities Involved in Regulatory Processes by Issuer Type

Type of Issuer	SFC (public offers only)	HKEX
Resident issuer	Authorization by the SFC of the registration of prospectus with the Registrar of Companies required #	Listing eligibility follows criteria and related provisions in the SEHK Listing Rules %
Resident nonfinancial institution		
Resident financial institution		
Resident issuing FCY-denominated bonds and notes		
Nonresident issuer		
Nonresident nonfinancial institution		
Nonresident financial institution		
Nonresident issuing FCY-denominated bonds and notes		

The prospectus is required to be registered with the Registrar of Companies, not with the SFC. The SFC "authorises" its registration. For reference, see the wording in section 38D of the CWUMPO.

% The Listing Rules impose different requirements in respect of certain types of issuers. For example, see Chapter 31 (States), Chapter 32 (Supranationals), Chapter 33 (State Corporations) and Chapter 34 (Banks). FCY = foreign currency, HKEX = Hong Kong Exchanges and Clearing Limited, SEHK = The Stock Exchange of Hong Kong Limited, SFC = Securities and Futures Commission.

Source: ADB Consultants for SF1.

While the regulatory processes related to the issuance of debt securities to the public in Hong Kong, China—including the issuance approval for public offers, admission of debt instruments into the CMU or CCASS, and listing process on HKEX—are principally the same for all types of corporate issuers, mineral companies, state corporations, and banks (when pursuing a listing approval) are subject to the provisions of Chapters 30, 33, and 34 of the Listing Rules, respectively.

Nonresident issuers may issue bonds and notes in Hong Kong, China in Hong Kong dollars, offshore Chinese Renminbi, and foreign currencies. There are no differences to the regulatory process based on the denomination of the bond or note

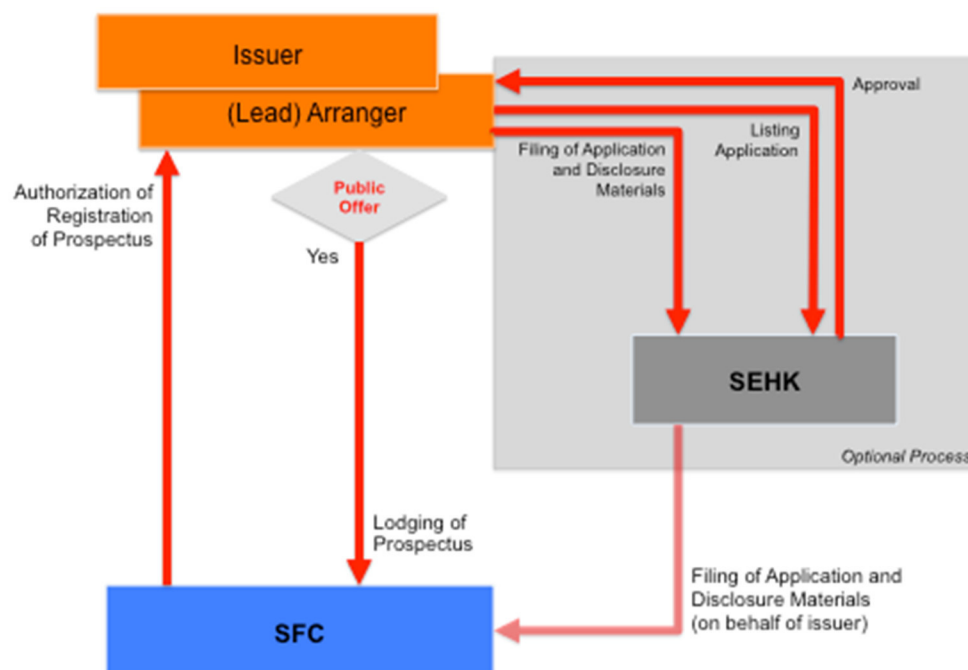
2. Regulatory Process Overview

In Hong Kong, China, issuers of proposed bonds and notes are not required to appoint an underwriter under the law; this is also the case with a public offer. At the same time, the use of one or more underwriters may be practical to reach the intended investor universe.

¹⁵ Although it is common market practice for retail debt securities to be admitted into CCASS, there is no listing rule requirement for mandatory admission of retail debt securities into CCASS.

The technical terms used for the principal agent of an issuer in the Hong Kong bond market ranges from underwriter and arranger to listing agent or listing sponsor. For reasons of compatibility with the Bond Market Guides for other ASEAN+3 markets, the term arranger is used in illustrations in this document.

Figure 2.1: Regulatory Process Map—Bond and Note Issuance in Hong Kong, China



SEHK = The Stock Exchange of Hong Kong Limited, SFC = Securities and Futures Commission.

Notes: While the listing of debt securities is shown as an optional process, the listing approval from SEHK is not optional in the event a listing is applied for. In the event that a public bond is to be listed, SEHK will be vetting the prospectus.

Source: ADB Consultants for SF1.

An arranger (or underwriter) needs to be licensed as a Licensed Corporation or registered as a Registered Institution for such activities by the SFC. If the arranger (or underwriter) is an Authorized Institution under the Banking Ordinance, typically a bank, the arranger will be called a Registered Institution for the purposes of carrying out underwriting activities under the purview of the SFC.¹⁶ If instead the arranger is not an Authorized Institution (e.g., broker or securities dealer), the arranger will be referred to as a Licensed Corporation.

If selected, an underwriter is appointed by the issuer. If an arranger is used, the issuer may appoint the underwriter on the advice of the arranger, or the arranger may appoint the underwriters in turn. If an arranger (or underwriter) is appointed, such an agent is expected to support the preparation and submission of all approval relevant information and necessary documents to the regulatory authorities and market institutions. A listing of the debt securities is optional. In case a listing is intended, a listing sponsor may be used, which in most cases would be the arranger or underwriter.

¹⁶ Authorized Institution refers to a bank, restricted license bank, or deposit-taking institution as defined in section 2 of the Banking Ordinance.

The regulatory process map shown as Figure 2.1 may help with the navigation of the applicable regulatory processes to be applied to a given proposed bond or note issuance.

The issuance approval process and related requirements differ between public offers and issuances aimed at Institutional Investors or professional investors (see Chapter III.N). Sections 4 and 5 in this chapter provide detailed descriptions of Institutional Investors and professional investors, respectively.

3. Regulatory Process in Case of a Nonresident Issuer

In the Basic Law of Hong Kong, and in the regulations and rules issued by SFC and HKMA, respectively, there are no substantive distinctions between types or domicile of issuers for the purpose of issuing or trading and settling debt securities. Hence, regulatory processes for a nonresident issuer are the same as those for a resident issuer, and follow the processes described in Sections 4 and 5 below.

4. Regulatory Process for Public Offers

Public offers of debentures¹⁷ (which are not structured products) by companies are governed by Part II (in case of a company incorporated in Hong Kong) and Part XII (in case of a company incorporated outside Hong Kong) of the CWUMPO.¹⁸ In general, any document or advertisement offering debentures (which are not structured products) to the public in Hong Kong, China issued by companies is required to be authorized by the SFC under the CWUMPO for registration as a prospectus¹⁹, unless an exemption set out in the 17th Schedule to the CWUMPO applies.²⁰ The SFC vets the prospectus against the content requirements in the 3rd Schedule to the CWUMPO. A list of unlisted bond and note offers to the public authorized by the SFC can be seen on the SFC website.²¹

The CWUMPO prospectus regime is disclosure based. The 3rd Schedule to the CWUMPO sets out matters and reports that must be disclosed in a prospectus, these include:

- general nature of the business of the company;
- authorized share capital or maximum number of shares issuable under the articles and other share details;
- names, descriptions, and addresses of the directors or proposed directors;
- dates of, parties to, and general nature of every material contract carried on or intended to be carried on by the company;
- names and addresses of the auditors; and

¹⁷ According to section 2 of CWUMPO, debenture, in relation to a company, includes debenture stock, bonds, and any other debt securities of the company, whether or not constituting a charge on the assets of the company.

¹⁸ Structured products that are offered to the public in Hong Kong, China are required to obtain prior authorization from the SFC, unless an exemption under section 103 of the SFO applies. One of the exemptions is offers made only to professional investors”, where the term “professional investor” is defined in section 1 of Part 1 of the SFO as extended by the Securities and Futures (Professional Investor) Rules. The definition of structured products is set out in section 1A of Schedule 1 to the SFO.

¹⁹ According to section 2 of CWUMPO, prospectus refers to any prospectus, notice, circular, brochure, advertisement, or other document offering any shares or debentures in a company to the public for subscription or purchase for cash or other consideration; or calculated to invite such offers, with certain exceptions, for example, prospectus that relates to an offer specified in the 17th Schedule to the CWUMPO.

²⁰ Section 103 of the SFO requires any document or advertisement offering “structured products” to the public in Hong Kong, China to be authorized by the SFC, unless an exemption under section 103 of the SFO applies. One of the exemptions is offers made only to “professional investors.”

²¹ See <http://www.sfc.hk/productlistWeb/searchProduct/USAD.do?lang=EN>

- in the case of debentures, the rights conferred upon the holders including rights in respect of interest and redemption, and particulars of the security.

Apart from the specific requirements in the 3rd Schedule, the CWUMPO sets a disclosure standard requiring issuers to put in their prospectuses “sufficient particulars and information to enable a reasonable person to form as a result thereof a valid and justifiable opinion of the shares or debentures and the financial condition and profitability of the company at the time of the issue of the prospectus, taking into account the nature of the shares or debentures being offered and the nature of the company, and the nature of the persons likely to consider acquiring them.”

Each prospectus must be registered with the Registrar of Companies upon authorization of the prospectus by the SFC. The prospectus must either be in English with a Chinese translation or in Chinese with an English translation.

The CWUMPO permits a “dual prospectus” structure under which a prospectus may consist of a program prospectus and an issue prospectus that can be authorized, registered, and issued separately for facilitating the conduct of program offers (offers made on a repeat or continuous basis or through successive tranches). The features of this dual prospectus structure include

- A prospectus may consist of (i) a program prospectus; (ii) an issue prospectus; and (iii) an addendum, if necessary, updating the information in the program prospectus or issue prospectus.
- The program prospectus remains valid for not more than 12 months from the date of issue or until publication of the next annual report and accounts of the issuer, whichever comes first.
- The issue prospectus and the corresponding form of application must contain a warning statement that potential investors should read the program prospectus and addendum (if any) for further details about the issuer and program before making any application for the relevant shares or debentures.
- The program prospectus and addendum (if any) should be readily available to investors throughout the period during which the shares or debentures to which it relates are being offered.
- When an issue prospectus is registered, the information in it and in the program prospectus and addendum (if any) referred to in the issue prospectus must comply with the CWUMPO content requirements unless exempted. The program prospectus together with the addendum (if any) and issue prospectus are to be read together, and civil and criminal liabilities provisions regarding untrue statements will apply accordingly.

Pursuant to the SFC Guidelines on Use of Offer Awareness Materials and Summary Disclosure Materials in Offerings of Shares and Debentures under the Companies Ordinance, additional materials related to the offer must be issued by the issuer of the prospectus and must not contain any substantive information not contained in the prospectus nor anything that is inconsistent with the information in the prospectus.

The following steps describe the actions to be undertaken by the parties involved to obtain the authorization for registration of the prospectus from the SFC. Where the issuer uses a sponsor, the sponsor would be expected to drive and coordinate the public offer.

In cases involving a public offering of bonds or notes, or a program offering of debentures to be listed on SEHK, authorization for registration of the prospectus is administered by SEHK and becomes part of the listing approval process (see Section III.I). Also, under the Securities and Futures (Stock Market Listing) Rules (Cap. 571V), the listing applicant is regarded as having sent a copy of its application and ongoing

disclosure materials to the SFC if it submits them to SEHK and authorizes SEHK to file them with the SFC on its behalf.

Step 1 – Submission of Application for Authorization to the SFC

To apply for an authorization for registration of a prospectus in respect of unlisted debentures, the issuer or its adviser will be required to submit to the SFC an application in writing, together with the draft prospectus, a completed checklist setting out compliance of all relevant provisions under the CWUMPO, the draft marketing materials (if any), and requisite application fees under the Securities and Futures (Fees) Rules (Chapter 571AF of the Laws of Hong Kong).

If the issuer intends to issue debt securities under a program, and would like to use the dual prospectus approach, the issuer or sponsor will need to seek the exemption of the SFC from the obligatory prospectus requirements. The application should be accompanied by the prospectus(es) and any relevant supporting documents.

The issuer should prepare the prospectus (and any supplemental prospectus) in physical or electronic form (in the case of an eIPO).²² The electronic form of such documents should be prepared in a format that cannot be tampered with.

In the application, the issuer would also have to name an individual—to be approved by the SFC—and their contact details for the purpose of being served by the SFC with any notices and decisions for the issue(s) (SFO Section 105).

Step 2 – Authorization by the SFC

SFC authorization involves the review of offering documents, and in some cases the structural features of a particular product, to see if certain impartial benchmarks are met and the required information is disclosed.

The SFC reviews the issuance application and information and documents provided, and may provide feedback as necessary. The SFC may, at its discretion, ask the issuer or the arranger for additional documents or information.

Before the SFC authorizes a prospectus for registration it has to be satisfied that, based on the information provided by the issuer, all the requirements in the 3rd Schedule and in Part II or Part XII of the CWUMPO have been met or are otherwise exempted.

As mentioned previously, the validity of a prospectus (or program prospectus in the event of an issuance program) is expected to last for no more than 12 months, unless exceptional circumstances apply and the SFC agrees to such exception.

A list of the investment products containing the offering documents that have been authorized by the SFC for issuance under the SFO or for registration under the CO (unlisted debentures) are available on the SFC website.²³ The website also contains, for unlisted debentures, the most comprehensive advertisements on the offer (such as

²² eIPO refers to an initial public offering conducted by electronic means, such as through the internet. Details on eIPOs are contained in the SFC Guidelines for Registered Persons Using the Internet to Collect Applications for Securities in an Initial Public Offering.

²³ See <http://www.sfc.hk/web/EN/regulatory-functions/products/product-authorization/list-of-investment-products.html>

leaflets or factsheets) that the SFC has authorized under section 105 of the SFO and/or section 38B(2A)(b) of the CWUMPO. The documents on the website are provided by the issuers and the SFC has not independently verified those documents prior to posting.

5. Regulatory Process for Bonds and Notes Aimed at Professional Investors

Bond or note issuances by corporate issuers, regardless of domicile of issuer, aimed at professional investors in the Hong Kong bond market do not require any approval from or notice to regulatory authorities, such as an authorization from the SFC. This includes note issuance programs. If a listing is sought, SEHK's approval is required (see Chapter III.I).

Under CWUMPO, a prospectus is required only when there is a public offer. There is no definition of a public offer in the law. However, the 17th Schedule to CWUMPO sets out the types of offers that are not bound by the prospectus provisions. In practice, these offers are treated as non-public offers. These offers include:

- an offer to professional investors only,
- an offer to not more than 50 persons,
- a small offer with total consideration of not more than HKD5 million (or its equivalent in other currency),
- an offer where the minimum principal amount to be subscribed or purchased is not less than HKD500,000 (or its equivalent in other currency), and
- an offer where the exchange of debt securities does not result in an increase in the aggregate outstanding principal amount.²⁴

If the issuer wishes to list such wholesale bonds on the Professional Bonds segment on HKEX, the issuer or its agent (listing sponsor) would have to complete a listing application. In such case, a listing document, such as an offering circular, will need to be provided. According to Listing Rule 37.32, such a listing document must be in English or Chinese, must contain a statement limiting its distribution to professional investors only (Listing Rule 37.31, and may be in printed or electronic form (37.33).

Details of this listing process and its requirements are outlined in Chapter III.I.

6. Obligations after Approval and after Issuance

Post-issuance reporting obligations apply to public offers only and are detailed below.

a. Public Offers

After the registration of the prospectus, the issuer or sponsor of a public offer of bonds or notes is required to report to the SFC within 10 days of an activity relating to the offer, such as the publishing of offer documents, marketing materials or advertisements.

Although there is no continuing disclosure requirement for unlisted debentures under existing law, as a matter of practice, an issuer would, in response to inquiries raised by the SFC during the document vetting process, represent in the prospectus that it will make disclosure of information to avoid the establishment of a false market or disclosure of changes which may significantly affect the ability of the issuer to make payment on the bonds or notes.

²⁴ See the 17th Schedule to the CWUMPO for a list of safe harbors.

b. Offer to Professional Investors Only

Since no specific approval is required for the issuance of bonds or notes aimed at professional investors only, no subsequent reporting on such issuance needs to be submitted to regulatory authorities by the issuer or its agent, except as required by the Listing Rules (see Chapter 37) in the event a listing is pursued.

If the event that specific post-issuance reporting provisions to investors or other parties have been agreed between parties involved in the issuance, such obligations would need to be observed according to agreements reached.

7. Issuance Process Specific for a Domestic Financial Institution

When issuing debt securities, a resident financial institution, termed an Authorized Institution under the supervision of the HKMA, needs to seek the approval of the HKMA if the proceeds are intended to count toward its regulatory capital.

In the event of a listing, there are specific requirements applicable to banks as issuers of debentures to the public set out in Chapter 34 of the Listing Rules.²⁵ No specific requirements exist for banks under the Listing Rules for Professional Debts (Chapter 37).

8. Regulatory Process for Foreign Currency Denominated Debt Instruments

There is no distinction in Hong Kong, China between the issuance process for bonds and notes denominated in Hong Kong dollars, offshore Chinese renminbi, or foreign currencies.

The CMU can also clear and settle euros, US dollars, and Chinese renminbi via the Clearing House Automated Transfer System, which is known as CHATS.

Therefore, the regulatory process for foreign-currency-denominated debt instruments follows the process described in either sections 4 or 5, as appropriate.

G. Continuous Disclosure Requirements in the Hong Kong Bond Market

1. Public Offers

Although there is no continuing disclosure requirement for unlisted debentures under existing law, as a matter of practice, an issuer would, in response to inquiries raised by the SFC during the document vetting process, represent in the prospectus that it will make disclosure of information to avoid the establishment of a false market or disclosure of changes which may significantly affect the ability of the issuer to make payment on the bonds or notes.

For issues of debt securities other than issues to professional investors only, the continuing obligations under the Listing Rules and the SFO are designed to ensure that issuers keep the holders of their debt securities (and the public) fully informed of all factors which might affect their interests and treat the holders of their debt securities

²⁵ See https://www.hkex.com.hk/eng/rulesreg/listrules/mbrules/documents/chapter_34.pdf

in a proper manner. A number of continuing obligations are set out in a listing agreement entered into between an issuer and SEHK and the Listing Rules. The SEHK retains the right to impose additional requirements from time to time.

The general continuing obligations under the Listing Rules include the following:²⁶

- compliance with the Listing Rules;
- where there is or there is likely to be a false market in its listed debt securities, the issuer must, as soon as reasonably practicable, announce the information necessary to avoid a false market in its securities;
- announcement of inside information required to be disclosed under the Inside Information Provisions of the SFO;
- if the issuer is listed on other stock exchanges, information released to any such other exchanges is released in the Hong Kong bond market at the same time as it is released in the other markets;
- where the debt securities are guaranteed, the issuer must announce, as soon as reasonably practicable, any Guarantor actions that may have a material effect on its ability to meet the obligations under the debt securities;
- the publication of a change in either
 - the rights attached to any class of listed debt securities, or
 - the rights attached to any shares into which any listed debt securities are convertible or exchangeable;
- the publication of a decision to pass any interest payment of listed debt securities as soon as reasonably practicable after the decision has been made; and
- The publication of any purchase, redemption, or cancellation by the issuer (or any member of the group) of its listed debt securities as soon as possible after the purchase, redemption, or cancellation.

Annual reports or summary financial reports (as applicable) must be delivered to the trustee or fiscal agent (as applicable) and every holder of its listed debt securities (not being bearer debt securities) no less than 21 days before the issuer's annual general meeting. An offshore issuer must deliver its annual report no less than 21 days before the date of the issuer's annual general meeting and no more than 6 months after the end of the financial year to which they relate. Additionally, the issuer must lay its annual accounts at its annual general meeting within the period of 6 months after the end of the financial year. The Listing Rules set out additional information required to be delivered or included in the annual report and accounts.

The Listing Rules also specify certain notifications to be given to SEHK, including new issuances of debt and any decisions to change the general character or nature of business of the issuer or group.

Information such as notices, advertisements, or announcements relating to the debt securities or to a new issue of debt securities must be submitted to SEHK for review. The SEHK must confirm that they have no comments on them before they can be issued or implemented.

²⁶ Practical Law. Debt Capital Markets in Hong Kong Regulatory Overview—Country Q&A.
<http://us.practicallaw.com/2-526-9285?source=relatedcontent#a128060>

The issuer must inform SEHK if any part of the listed debt securities of the issuer or any of its subsidiaries is listed or dealt on any other stock exchange. Effective January 2013, the issuer must comply with the Inside Information Provisions as stipulated in the SFO (Part C of Appendix 7). The HKEX Listing Agreement was amended accordingly in January 2013.

Furthermore, the issuer may be required to appoint and maintain a paying agent and/or (where appropriate) a registrar in Hong Kong, China as long as the debt securities are outstanding and unless the issuer itself performs the functions of such paying agent and/or registrar.

The actual details of continuing obligations vary according to the type of issuer.

It should be noted that once a prospectus is authorized for registration by the SFC, it is available for viewing on a dedicated SFC web page, List of Investment Products, under the tab Unlisted Shares & Debentures.²⁷

2. Professional Bonds (Listing for Trading or Profile Listing)

The key disclosure document for bonds or notes aimed at professional investors is the offering circular (or Information Memorandum or Offering Memorandum), which contains provisions agreed among parties involved (issuer, arranger and other agents, investors, and intermediaries) on terms and conditions, governing law and jurisdiction, and relevant supporting documentation and disclosure items.

Continuous disclosure for a wholesale bond or note, or issuance program, primarily depends on the conditions set out in the Information Memorandum or Offering Memorandum, and may be based on market expectations among investors.

In practical terms, most of the debt securities offered in Hong Kong, China represent offers to professional investors only. This includes both debt securities listed for trading as well as those listed for profiling on the HKEX Professional Bonds market.

For issues of debt securities to professional investors only that are listed, an issuer's continuing obligations under Listing Rules 37.44–53 include the following:²⁸

- compliance with the Listing Rules;
- announcement of any information that is necessary to avoid a false market in its securities or that may have a material effect on its ability to meet the obligations under its debt securities;
- announcement if aggregate redemptions or cancellations exceed 10% and with every subsequent 5% interval of an issue or any public disclosure made on another stock exchange about its debt securities;
- prior notification of any proposal to replace a trustee, amend the trust deed, or amend the terms of convertible debt securities, unless the amendment occurs automatically in accordance with the terms of the debt securities;
- notification of listing of debt securities on another stock exchange;
- provision of a copy of any circular sent to bondholders or any trustee, and, if the issuer is a body corporate, provision of an annual report and interim report; and
- obligation to declare inside information or such information only privy to the issuer that could have a material impact on the debt securities of that issuer

²⁷ See <http://www.sfc.hk/productlistWeb/searchProduct/USAD.do?lang=EN>; a click on the Documents tab on the right side of the page will launch a pop-up window listing the prospectus and marketing materials for the bond or note issue selected.

²⁸ Practical Law. Debt Capital Markets in Hong Kong Regulatory Overview—Country Q&A. <http://us.practicallaw.com/2-526-9285?source=relatedcontent#a128060>

(amended in response to the SFO Inside Information Provisions effective January 2013).

Some of the continuous disclosure obligations may be more relevant for nonresident issuers since domestic issuers in Hong Kong, China are often listed and publish continuous disclosure information as a matter of course.

Where equity securities of issuers or Guarantors are also listed, an assessment should be made on whether the announcement published with regard to equity securities has any relevance to the debt securities. Information that has an impact on debt securities should be published under the debt stock codes in addition to the equity counter on the HKEXnews website to enhance transparency and facilitate information access for holders of debt securities.

Announcements related to debt securities should be submitted via the SEHK e-Submission System. SEHK also encourages issuers or guarantors to submit electronic copies of financial accounts or provide the link of a website to SEHK if the financial accounts are published on a website via e-mail.²⁹

H. Self-Regulatory Organizations in the Hong Kong Bond Market

At the present time, no SRO specific to the bond market exist in Hong Kong, China. There are securities industry associations in Hong Kong, such as the Hong Kong Capital Markets Association (HKCMA). While the mission of the HKCMA is primarily to promote the Hong Kong debt capital markets and represent its members in the dialogue with regulatory authorities, the HKCMA is not an SRO.

HKEX is considered an exchange-type SRO since it is permitted under the SFO to issue and maintain rules and govern its participating institutions.

1. Hong Kong Exchanges and Clearing Limited

HKEX falls under the Limited Exchange Self-Regulatory Organization Model. The principal function of HKEX is to provide an orderly, informed and fair market for the trading of instruments on its securities and derivatives markets. HKEX is an exchange controller recognized under section 59 of the SFO, and it has statutory duties under section 63 in respect of its subsidiary exchanges and clearinghouses; HKEX is responsible for the enforcement of the trading and clearing rules of its exchanges and clearinghouses. The SFC is responsible for the prudential and conduct regulation of SEHK Participants that are Licensed Corporations under the SFO.

The SEHK, a wholly owned subsidiary of HKEX, is a recognized exchange company under the SFO. It operates and maintains a stock market in Hong Kong, China and is the primary regulator of SEHK Participants with respect to trading matters and the frontline regulator of companies listed on the Main Board and Growth Enterprise Market. SEHK is authorized by section 23 of the SFO to make Listing Rules. SEHK proposes the introduction of new Listing Rules or amendments to the existing Listing Rules, which then requires public consultation and approval from the SFC.

Given HKEX's status as the sole operator of the exchange-based securities markets in Hong Kong, China, the need to ensure that HKEX discharges its responsibilities of safeguarding the integrity of these markets, and its strategic importance to Hong Kong, China's success as an international financial center, a comprehensive framework of checks and balances has been put in place:

²⁹ Reference is made to SEHK Guidance Letter. Guidance on Continuing Obligations (Chapter 37 of the Listing Rules). <http://www.hkex.com.hk/eng/rulesreg/listrules/listletter/Documents/20151106.pdf>

- A corporate governance structure intended to enable HKEX to balance its public functions and its commercial profitmaking objectives has been implemented.
- The fees imposed by HKEX in its capacity as a recognized exchange controller, the Stock Exchange and Futures Exchange as a recognized exchange company, and their related clearinghouses as recognized clearinghouses are required under the SFO to be set out in their respective rules and approved by the SFC. The making of, and changes to, the rules of the Stock Exchange and Futures Exchange and their related clearinghouses require the approval of the SFC. In deciding whether or not to approve a fee or changes to a fee, the SFC is required by the SFO to consider
 - the level of competition (if any) in Hong Kong, China for the matter for which the fee is to be imposed; and
 - the level of fee (if any) imposed by another recognized exchange controller, recognized exchange company, or recognized clearinghouse or any similar body outside Hong Kong, China for the same or a similar matter to which the fee relates.
- As required under the SFO, HKEX established a Risk Management Committee to formulate policies on risk management matters relating to the activities of HKEX, the Stock Exchange and Futures Exchange, and their related clearinghouses, and to submit such policies to HKEX for its consideration. The chairman of HKEX is the chairman of the Risk Management Committee.

More information on HKEX and its trading boards as it relates to the listing and trading of, and reporting on debt securities in the bond market can be found in Chapters II, III, and IV.

For details on some of the listing and trading rules underlying regulations, as well as the trading and disclosure rules of SEHK, please refer to Chapter II.J.

I. Rules Related to Licensing and Trading Conventions

In Hong Kong, China, the licensing of market participants in the securities market is first and foremost undertaken by the SFC, but HKMA Authorized Institutions (once registered with the SFC for the relevant regulated activity) may also participate in the listed bond market.

a. Trading Rights and Stock Exchange of Hong Kong Participants

Under the SFO, any person carrying on a business of regulated activities (e.g., dealing in securities, including debt securities, or dealing in futures contracts) in Hong Kong, China has to be licensed by or registered with the SFC. The SFC maintains a public register of Licensed Persons and Registered Institutions, which is publicly accessible via its website.³⁰

In addition, the rules promulgated by the Stock Exchange and the Futures Exchange require any person who wishes to trade on or through their respective

³⁰ See <http://www.sfc.hk/web/EN/regulatory-functions/intermediaries/licensing/register-of-licensees-and-registered-institutions.html>

facilities to hold a Trading Right as a prerequisite to becoming an Exchange Participant.

However, the holding of a Trading Right does not of itself permit the holder to actually trade on or through the relevant exchange. In order to do this, it is also necessary for the person to be registered as a participant of the relevant exchange (Exchange Participant) in accordance with its rules, including those requiring compliance with all relevant legal and regulatory requirements. As required by the relevant exchange, prior to applying to become an Exchange Participant, the person has to be licensed by the SFC as a Licensed Corporation.

Trading Rights are conferred on both institutions and individuals.

b. Banking License (Authorized Institutions)

The HKMA licenses and supervises Authorized Institutions (licensed banks, restricted licensed banks, and deposit-taking companies) who are principally able to participate in the bond market under the provisions of the Banking Ordinance. This includes the Local Representative Offices (e.g., branches) in Hong Kong, China of Authorized Institutions established outside of Hong Kong, China.

The relevant provisions in the Banking Ordinance for the participation of Authorized Institutions in the securities market have since been integrated into the SFO. Hence, Authorized Institutions may participate in the bond market, subject to being registered with the SFC for such activities, becoming Registered Institutions in the process. The HKMA acts as the frontline regulator to supervise the regulated activities conducted by Registered Institutions.

The HKMA maintains a public register of Authorized Institutions and Local Representative Offices under its supervision, which is accessible via its website and is downloadable as an Excel file.³¹

In addition, the HKMA maintains the Register of Securities Staff of AIs, which is a database of current and former staff of Authorized Institutions engaging in securities business and/or other regulated activities, as defined under the SFO.³²

c. Market Conventions and Best Practices

Established in 1986, the HKCMA is an industry association founded by a group of financial institutions active in Hong Kong, China to help promote the development of the local and regional debt capital markets. Since its inception, the HKCMA has performed four main functions:

- i) providing various professional recommendations and feedback to regulators with respect to developmental issues of the debt markets;
- ii) providing a forum for market professionals to discuss and implement best practices guidelines;
- iii) organizing regular functions for market participants to network; and
- iv) providing bond market education and training to the public.

³¹ See <http://vpr.hkma.gov.hk/cgi-bin/vpr/index.pl>

³² See <http://apps.hkma.gov.hk/eng/ereg/disclaimer.htm>

Both full and associate members of the HKCMA actively participate in the affairs of the association. Being an HKCMA member is one possible prerequisite to being recognized as a CMU Member.

The HKCMA sets rules and market conventions for its members and the market at large in close cooperation with the HKMA on matters such as trading hours, the quoting and trading of debt securities, and interest calculation for the bond market and money market. At the same time, the HKCMA is advising the SFC and the HKMA on industry practices, and making recommendations for the smooth implementation of new regulations and practices.

d. Code of Conduct

The SFC issued the Code of Conduct for Persons Licensed by or Registered with the SFC, in which standards for and expectations of market participants are detailed. While not having the force of law, the SFC will be guided by this code in considering whether a licensed or registered person satisfies the requirement that it is fit and proper to remain licensed or registered, and therefore would need to be observed as a matter of course. A failure by any person to comply with the code's provisions that apply to it will also be admissible as evidence in court proceedings under the SFO.

J. The Stock Exchange of Hong Kong Limited Rules Related to Bond Listing, Disclosure, and Trading

Rules and regulations for the listing and exchange-based trading of debt instruments, as well as the applicable disclosure requirements, are contained in the Main Board Listing Rules (Listing Rules). Specific provisions with regard to the functions of SEHK in relation to the bond market are indicated below.

1. Listed and Traded Bonds

SEHK is the frontline regulator of Stock Exchange Participants with respect to trading matters and of companies listed on the Main Board and Growth Enterprise Market of the Stock Exchange.

The Listing Rules govern the listing and disclosure requirements for all instruments listed and traded on SEHK. Debt securities listed under Chapter 22 to Chapter 36 of the Listing Rules can be invested by public investors.

In addition, the rules promulgated by the Stock Exchange and Futures Exchange require any person who wishes to trade on or through their respective facilities to hold a Trading Right. The Trading Right confers on its holder the eligibility to trade on or through the relevant exchange, and is awarded by the relevant exchange.

However, the holding of a Trading Right does not, of itself, permit the holder to actually trade on or through the relevant exchange. In order to do this, it is also necessary for the person to be admitted as an Exchange Participant of the relevant exchange in accordance with its rules, including those requiring compliance with all relevant legal and regulatory requirements. The holding of a Trading Right is a prerequisite to admission as an Exchange Participant. Another prerequisite to admission as an Exchange Participant is that the person must be a corporation licensed by the SFC for Type 1 (in the case of SEHK Exchange Participants) or Type 2 (in the case of HKFE Exchange Participants) regulated activities as part of the SFC's licensing process.

The debt securities listing process is further explained in detail in Chapter III.I.

Stock Exchange Trading Rights and Futures Exchange Trading Rights are issued by the Stock Exchange and Futures Exchange, respectively, at a fee and in accordance with the procedures set out in their respective rules.

2. Professional Bonds (Profile Listing)

The provisions for Debt Issues to Professional Investors Only, typically referred to as the Professional Bonds market segment, are contained in Chapter 37 of the Main Board Listing Rules. Investors intending to trade these debt securities (in the OTC market) should ensure they meet the definition of professional investors under Part 1 of Schedule 1 to the SFO.

HKEX issued a Guidance Letter on Professional Bonds, which is available together with other pertinent information from the HKEX website at <https://www.HKEX.com.hk/eng/rulesreg/listrules/listletter/Documents/20120330.pdf>

The Professional Bonds listing process is further explained in detail in Chapter III.I.

3. Trading Participants

The Rules of the Exchange (Rules), including its relevant schedules, govern the participation, qualifications, trading practices and prescriptions for Trading Rights on SEHK. In addition, the Rules contain the underlying requirements of participants, their conduct, and disciplinary measures in case of noncompliance.³³

For further details on the trading of debt securities, please refer to Chapter IV.

K. Market Entry Requirements (Nonresidents)

1. Nonresident Issuers

There are no market entry requirements for nonresident issuers in the Hong Kong bond market. There is no quota for the issuance of Hong Kong dollar, offshore Chinese renminbi, or foreign currency debt instruments by a nonresident issuer.

Nonresident issuers may issue debt securities denominated in Hong Kong dollars, offshore Chinese renminbi, or any foreign currency, subject to the approval of the relevant regulatory authorities for issuance as may apply (please see Section F). Foreign entities interested in raising funds in Hong Kong, China should however ascertain whether it is permitted under the law of their jurisdictions.

The proceeds raised from such issuance may be used either in Hong Kong, China or overseas, subject to applicable law and regulations in the relevant overseas jurisdictions. There is no limitation for nonresident issuers to open and maintain Hong Kong dollar, offshore Chinese renminbi, or foreign currency accounts with financial institutions in Hong Kong, China.

Foreign issuers can avail themselves of foreign exchange and hedging instruments to manage interest rate and currency exposure arising from the bond or note issuance with Authorized Institutions in Hong Kong, China or overseas.

³³ See <http://www.HKEX.com.hk/eng/rulesreg/traderules/sehk/exrule.htm> (visitors are required to accept a disclaimer).

2. Foreign Investors

There are no market entry requirements for foreign market participants to enable them to commence investing or trading in the Hong Kong bond market.

Foreign investors are free to invest in Hong Kong, China, in any form including the purchase of debt securities denominated in Hong Kong dollars, offshore Chinese renminbi, or foreign currency.

L. Market Exit Requirements (Nonresidents)

1. Nonresident Issuers

There are no market exit requirements for nonresident issuers.

2. Foreign Investors

There are no market exit requirements for foreign investors.

There are no restrictions for foreign investors to repatriate funds out of Hong Kong, China from the divestment or redemption of Hong Kong dollar, offshore Chinese renminbi, or foreign currency assets, or the interest arising from investments.

M. Regulations and Limitations Relevant for Nonresidents

Hong Kong, China, is one of the major financial centers in Asia, and a key international financial market. It has also cemented its role as the most significant offshore Chinese renminbi business center.

In consequence, there are no limitations for nonresidents on the participation in the Hong Kong bond market, or the securities or financial market at large.

N. Regulations on Credit Rating Agencies

This section covers the regulations and requirements applicable to credit rating agencies operating in Hong Kong and their business. For the actual credit rating requirements in the Hong Kong bond market, and the application of such credit ratings in the issuance process of bonds and notes, please refer to Chapter III.N.

The three largest CRAs have offices in this jurisdiction, alongside other smaller multinational and local CRAs.

The SFC issued the Code of Conduct for Persons Providing Credit Rating Services in June 2011.³⁴ It is based on the revised Code of Conduct Fundamentals for Credit Rating Agencies issued by the International Organization of Securities Commissions (IOSCO) in May 2008. The code applies to persons licensed by, or registered with, the SFC for Type 10 regulated activity (providing credit rating services), including representatives (as defined in section 167 of the SFO).

The code does not replace any legislative provisions, or any other codes or guidelines issued by the SFC.³⁵ In particular, it supplements and should be read in conjunction

³⁴ See http://en-rules.sfc.hk/net_file_store/new_rulebooks/h/k/HKSFC3527_1783_VER10.pdf

³⁵ See <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD271.pdf>

with the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (General Code of Conduct).³⁶ Like other codes and guidelines issued by the SFC, this code does not have the force of law. However, failure to comply with any provision of the code may reflect adversely on a person's fitness and properness to remain licensed or registered under the SFO.

The code stipulates the quality of the credit rating process expected by the SFC, as well as the monitoring and updating process and its underlying resources. The code emphasizes the integrity of the rating process and independence of the CRA and its representatives from external influences or conflicts of interest. It recommends the establishment of procedures and policies for all major areas of the CRA operation, and focuses on transparency and timeliness in the rating process as part of the described responsibilities of the CRA to the investing public at large and the entities it rates.

In line with the IOSCO General Code of Conduct, a CRA should establish its own code of conduct and disclose the same to the public by including the manner in which it will, through its code of conduct, discharge the obligations set by the SFC.

³⁶ See http://en-rules.sfc.hk/net_file_store/new_rulebooks/h/k/HKSFC3527_1868_VER50.pdf