

PART 16

NON-HONG KONG COMPANIES

Division 1 – Preliminary

16.1 Interpretation

(1) In this Part –

“approved name” (經批准名稱), in relation to a registered non-Hong Kong company, means –

- (a) the name entered in the Register under section 16.9(5)(a) or 16.12(5)(a); or
- (b) the name by which the company was registered by virtue of section 337B(3) of the predecessor Ordinance;

“authorized representative” (獲授權代表), in relation to a registered non-Hong Kong company, means –

- (a) a natural person resident in Hong Kong;
- (b) a solicitor corporation as defined by section 2(1) of the Legal Practitioners Ordinance (Cap. 159);
- (c) a corporate practice as defined by section 2(1) of the Professional Accountants Ordinance (Cap. 50); or
- (d) a firm of solicitors or certified public accountants (practising),

that is authorized to accept on the company’s behalf service of any process or notice required to be served on the company;

“corporate name” (法團名稱), in relation to a registered non-Hong Kong company, means a domestic name, or a translation of a domestic name, by which the company is registered in the Register;

“domestic name” (本土名稱), in relation to a non-Hong Kong company, means the name or names by which the company is registered in its place of incorporation;

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

“place of business” (營業地點) includes a share transfer office and a share registration office and excludes an office specified in subsection (3);

“procedural regulations” (《程序規例》) means regulations made under section 16.31;

“required details” (所需細節), in relation to an authorized representative, means –

- (a) the name and address of the representative;
- (b) the date on which the representative was authorized; and
- (c) in the case of a natural person –
 - (i) the number of the representative’s identity card; or
 - (ii) if the representative does not have an identity card, the number and issuing country of any passport held by the representative;

“secretary” (秘書) includes any person occupying the position of secretary (by whatever name called);

“solicitor” (律師) means a person who is qualified to act as a solicitor under the Legal Practitioners Ordinance (Cap. 159).

(2) In this Part, a reference to a certified translation, in English or Chinese, of a domestic name is a reference to an English or Chinese translation of that name as shown in a certified translation, in English or Chinese (as the case may be), of the certificate of incorporation (or its equivalent) of the non-Hong Kong company.

(3) The office specified for the purposes of the definition of “place of business” in subsection (1) is a local representative office established, or

maintained, with the Monetary Authority's approval, under section 46 of the Banking Ordinance (Cap. 155) by a bank as defined by subsection (9) of that section.

(4) The Financial Secretary may, by order published in the Gazette, amend subsection (3).

16.2 Certified copy

(1) For the purposes of this Part, a copy of a document is a certified copy if it is certified as a true copy of the document by a person specified in subsection (2).

(2) The person is –

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

- (iv) an officer of the court in Hong Kong who is authorized by law to certify documents for any judicial or other legal purpose;
 - (v) a consular officer of the non-Hong Kong company's place of incorporation; or
 - (vi) a professional company secretary practising in Hong Kong;
- (c) an officer of the non-Hong Kong company; or
 - (d) an authorized representative of the registered non-Hong Kong company.
- (3) The Secretary may, by order published in the Gazette, amend subsection (2).

Division 2 – Registration

16.3 Certain non-Hong Kong companies must apply for registration

- (1) This section applies to –
- (a) a non-Hong Kong company that establishes a place of business in Hong Kong on or after the commencement of this Part; and
 - (b) a non-Hong Kong company that –
 - (i) at that commencement, has a place of business in Hong Kong established before the commencement; and
 - (ii) had not complied with section 333 of the Companies Ordinance (Cap. 32) as in force immediately before that commencement.
- (2) A non-Hong Kong company falling within subsection (1)(a) must, within one month after the establishment of the place of business, apply to the Registrar for registration as a registered non-Hong Kong company.

(3) A non-Hong Kong company falling within subsection (1)(b) must, within one month after the commencement of this Part, apply to the Registrar for registration as a registered non-Hong Kong company.

- (4) An application under subsection (2) or (3) must –
- (a) be in the specified form;
 - (b) contain the particulars prescribed by procedural regulations;
 - (c) contain the required details of at least one person who is proposed to be an authorized representative on registration of the non-Hong Kong company;
 - (d) be accompanied by the documents prescribed by procedural regulations; and
 - (e) be delivered to the Registrar.

(5) If none of the non-Hong Kong company's domestic names is in Roman script or in Chinese, an application under subsection (2) or (3) must also contain –

- (a) where the company has one domestic name, a certified translation of that name in English or Chinese, or both; or
- (b) where the company has more than one domestic name, a certified translation of one of those names in English or Chinese, or both.

(6) If a non-Hong Kong company contravenes subsection (2) or (3), the company, and every officer or agent of the company who authorizes or permits, participates in, or fails to take all reasonable steps to prevent, the contravention, commit an offence, and each is liable to a fine at level 5 and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.

16.4 Registration of non-Hong Kong company

(1) On receiving an application under section 16.3(2) or (3), the Registrar must register the non-Hong Kong company as a registered non-Hong Kong company.

(2) If the application is not required by section 16.3(5) to contain a certified translation of a domestic name, the Registrar must enter in the Register, as a corporate name –

- (a) the non-Hong Kong company's domestic name in Roman script, or that company's domestic name in Chinese, or both; and
- (b) the certified translation, in English or Chinese, of a domestic name (if any) contained in the application pursuant to procedural regulations.

(3) If the application contains a certified translation of a domestic name for the purposes of section 16.3(5), the Registrar must enter that translation in the Register as a corporate name.

(4) On registering a non-Hong Kong company under subsection (1), the Registrar must –

- (a) issue to the company a certificate of registration, with the Registrar's signature, certifying the registration; and
- (b) register the application and accompanying documents.

Division 3 – Addition, Change or Cessation of Corporate Name

16.5 Company must notify Registrar of addition, change or cessation of name or translation of name

(1) If, as a result of an addition of domestic name, a registered non-Hong Kong company has a new domestic name in Roman script or in Chinese, the company must, within one month after the date of the addition, deliver to the Registrar for registration a return containing the particulars of the addition.

(2) If, as a result of a change to a domestic name, a registered non-Hong Kong company has a new domestic name, the company must, within one month after the date of the change, deliver to the Registrar for registration a return containing the particulars of the change.

(3) If a name of a registered non-Hong Kong company ceases to be a domestic name, the company must, within one month after the date of the cessation, deliver to the Registrar for registration a return containing the particulars of the cessation.

(4) Subsection (2) or (3) does not apply unless the registered non-Hong Kong company is registered in the Register by the domestic name or a translation of it.

(5) A registered non-Hong Kong company must, within one month after the date of a decision mentioned in paragraph (a), (b) or (c), deliver to the Registrar for registration a return containing the particulars of the decision, and the certified translation of the domestic name, if –

- (a) the company does not have a corporate name in Roman script, and it decides to adopt a certified translation, in English, of a domestic name, under which it is to carry on business in Hong Kong;
- (b) the company does not have a corporate name in Chinese, and it decides to adopt a certified translation, in Chinese, of a domestic name, under which it is to carry on business in Hong Kong; or
- (c) a translation of a domestic name of the company is entered in the Register as a corporate name, and it decides to replace the translation with another translation of the domestic name, under which it is to carry on business in Hong Kong.

(6) If a translation of a domestic name of a registered non-Hong Kong company is entered in the Register as a corporate name, and the company

decides that the translation will no longer be a name under which it is to carry on business in Hong Kong, the company must, within one month after the date of the decision, deliver to the Registrar for registration a return containing the particulars of the decision.

- (7) A return under subsection (1), (2), (3), (5) or (6) must –
- (a) be in the specified form; and
 - (b) be accompanied by the documents specified by the Registrar.

(8) A return under subsection (2) must also contain a certified translation of the new domestic name in English or Chinese, or both, if the new domestic name is neither in Roman script nor in Chinese.

(9) If a registered non-Hong Kong company contravenes subsection (1), (2), (3), (5) or (6), the company, and every officer or agent of the company who authorizes or permits, participates in, or fails to take all reasonable steps to prevent, the contravention, commit an offence, and each is liable to a fine at level 3 and, in the case of a continuing offence, to a further fine of \$300 for each day during which the offence continues.

16.6 Registration of corporate name

(1) If the Registrar receives a return under section 16.5(1), (2), (3), (5) or (6), the Registrar must –

- (a) make a note in the Register to the effect that there is a change of corporate name;
- (b) issue to the registered non-Hong Kong company a fresh certificate of registration containing the current corporate name; and
- (c) register the return and accompanying documents.

(2) If the Registrar receives a return under section 16.5(1), the Registrar must also enter in the Register, as a corporate name, the registered non-Hong Kong company's new domestic name.

(3) If the Registrar receives a return under section 16.5(2), and the return is not required by section 16.5(8) to contain a certified translation of a new domestic name, the Registrar must also enter in the Register, as a corporate name –

- (a) the registered non-Hong Kong company's new domestic name; and
- (b) the certified translation, in English or Chinese, of that domestic name (if any) contained in the return pursuant to procedural regulations.

(4) If the Registrar receives a return under section 16.5(2), and the return contains a certified translation of a new domestic name for the purposes of section 16.5(8), the Registrar must also enter that translation in the Register as a corporate name.

(5) If the Registrar receives a return under section 16.5(5), the Registrar must also enter in the Register, as a corporate name, the certified translation of the domestic name contained in the return.

(6) On a note being made under subsection (1)(a), a name entered in the Register as an approved name in relation to the old corporate name is no longer an approved name, and the Registrar must make another note in the Register to that effect.

(7) On an entry being made under subsection (2) or (3), a translation of a domestic name of the registered non-Hong Kong company that is entered in the Register as a corporate name of the company is no longer a corporate name if it is in the same language as the new domestic name, and the Registrar must make a note in the Register to that effect.

Division 4 – Regulation of Names Used by Registered Non-Hong Kong Companies to Carry on Business in Hong Kong

16.7 Registrar may serve notice to regulate use of corporate names or approved names

(1) The Registrar may serve a notice on a registered non-Hong Kong company if satisfied that a corporate name or approved name of the company –

- (a) is the same as or is too like –
 - (i) a name that appears, or should have appeared, in the index of names kept under section 22C of the predecessor Ordinance or in the Index of Company Names on the material date; or
 - (ii) the name of a body corporate incorporated or established under an Ordinance before the material date; or
- (b) gives so misleading an indication of the nature of the company’s activities in Hong Kong as to be likely to cause harm to the public.

(2) A notice must be served on a registered non-Hong Kong company within 6 months beginning with the material date and must state the reasons for serving the notice.

(3) In this section –
“material date” (關鍵日期) –

- (a) in relation to a domestic name, or a translation of a domestic name, of a registered non-Hong Kong company that is entered in the Register under section 16.4 as a corporate name, means the date on which the certificate of registration was issued under that section;
- (b) in relation to a domestic name, or a translation of a domestic name, of a registered non-Hong Kong company that is entered in the Register under section 16.6 as a

- corporate name, means the date on which the certificate of registration was issued under that section;
- (c) in relation to a domestic name, or a translation of a domestic name, of a registered non-Hong Kong company that has already been entered in the Register as at the commencement of this Part, means –
- (i) the date on which the company complied with section 333 of the predecessor Ordinance; or
- (ii) if the company has delivered a return for registration under section 335 of the predecessor Ordinance, the date on which the certificate of registration was issued under that section;
- (d) in relation to a name that is entered in the Register under section 16.9(5) or 16.12(5) as an approved name, means the date on which the certificate of registration was issued under that section; or
- (e) in relation to a name by which the registered non-Hong Kong company was registered by virtue of section 337B(3) of the predecessor Ordinance as an approved name, means the date of the registration.

16.8 Effect of notice

(1) If a registered non-Hong Kong company is served with a notice under section 16.7(1) for a corporate name or approved name, the company must not, after the end of 2 months after the date of service, carry on business in Hong Kong under that name.

(2) If a registered non-Hong Kong company contravenes subsection (1), the company, and every officer or agent of the company who authorizes or permits, participates in, or fails to take all reasonable steps to prevent, the contravention, commit an offence.

(3) A person who commits an offence under subsection (2) is liable to a fine at level 6 and, in the case of a continuing offence, to a further fine of \$2,000 for each day during which the offence continues.

(4) This section does not invalidate any transaction entered into by the registered non-Hong Kong company.

16.9 Registration of approved name for carrying on business in Hong Kong

(1) If a registered non-Hong Kong company is served with a notice under section 16.7(1) for a corporate name or for an approved name in relation to a corporate name, the company may apply, in writing, to the Registrar for approval of another name, in relation to the corporate name, under which the company is to carry on business in Hong Kong.

(2) An application must be delivered to the Registrar.

(3) On receiving an application for approval of a name, the Registrar must approve the name unless satisfied that the name –

(a) is the same as or is too like –

(i) a name that appears, or should have appeared, in the Index of Company Names; or

(ii) the name of a body corporate incorporated or established under an Ordinance; or

(b) gives so misleading an indication of the nature of the registered non-Hong Kong company's activities in Hong Kong as to be likely to cause harm to the public.

(4) If the Registrar approves a name, the registered non-Hong Kong company may deliver to the Registrar for registration a return, in the specified form, specifying the name so approved.

(5) On receiving a return, the Registrar must, unless satisfied that the name specified in it is the same as a name that appears, or should have appeared, in the Index of Company Names –

- (a) enter that specified name in the Register as the name, in relation to the corporate name, under which the registered non-Hong Kong company is to carry on business in Hong Kong;
- (b) issue to the company a fresh certificate of registration containing the corporate name and the name so entered; and
- (c) register the return.

(6) On the issue of the fresh certificate of registration, the name entered in the Register under subsection (5)(a) is, for all purposes of the law, the name under which the registered non-Hong Kong company is to carry on business in Hong Kong.

(7) Subsection (6) does not affect any rights or obligations vested in the registered non-Hong Kong company under the name for which the notice is served on the company under section 16.7(1).

(8) Subsection (6) does not render defective any legal proceedings by or against the registered non-Hong Kong company. If there are any legal proceedings that might have been commenced or continued by or against that company by the name for which the notice is served on that company under section 16.7(1), those proceedings may be commenced or continued by or against it by the name entered in the Register under subsection (5)(a) as an approved name in relation to the corporate name.

16.10 Withdrawal of notice

(1) After a registered non-Hong Kong company is served with a notice under section 16.7(1) for a corporate name or for an approved name in relation

to a corporate name, the Registrar may, on written application by the company, withdraw the notice.

(2) If the notice is withdrawn, section 16.8(1) ceases to apply to the registered non-Hong Kong company.

(3) If, after the notice is served, a name is entered in the Register as an approved name in relation to the corporate name, the Registrar must, on withdrawing the notice –

- (a) make a note in the Register to the effect that the name is no longer an approved name; and
- (b) issue to the registered non-Hong Kong company a fresh certificate of registration containing the name for which the notice is served.

16.11 Setting aside of notice

(1) Within 3 weeks after being served with a notice under section 16.7(1) for a corporate name or for an approved name in relation to a corporate name, a registered non-Hong Kong company may apply to the Court of First Instance to set aside the notice, and the Court may set it aside or confirm it.

(2) If the Court of First Instance sets aside the notice, the registered non-Hong Kong company must deliver a sealed copy of the Court order to the Registrar as soon as practicable after the order is made.

(3) If, after the notice is served, a name is entered in the Register as an approved name in relation to the corporate name, the Registrar must, on receiving a sealed copy of the Court order –

- (a) make a note in the Register to the effect that the name is no longer an approved name; and
- (b) issue to the registered non-Hong Kong company a fresh certificate of registration containing the name for which the notice is served.

16.12 Change of approved name

(1) A registered non-Hong Kong company may apply, in writing, to the Registrar for change of an approved name, in relation to a corporate name, under which the company is to carry on business in Hong Kong.

(2) An application must be delivered to the Registrar.

(3) On receiving an application for change of an approved name, the Registrar must approve the new name unless satisfied that the new name –

(a) is the same as or is too like –

(i) a name that appears, or should have appeared, in the Index of Company Names; or

(ii) the name of a body corporate incorporated or established under an Ordinance; or

(b) gives so misleading an indication of the nature of the registered non-Hong Kong company's activities in Hong Kong as to be likely to cause harm to the public.

(4) If the Registrar approves a new name, the registered non-Hong Kong company may deliver to the Registrar for registration a return, in the specified form, specifying the new name so approved.

(5) On receiving a return, the Registrar must, unless satisfied that the new name specified in it is the same as a name that appears, or should have appeared, in the Index of Company Names –

(a) enter the new name in the Register as the name, in relation to the corporate name, under which the registered non-Hong Kong company is to carry on business in Hong Kong;

(b) make a note in the Register to the effect that there is a change of approved name;

(c) issue to the company a fresh certificate of registration containing the corporate name and the new approved name; and

(d) register the return.

(6) On the issue of the fresh certificate of registration, the new approved name is, for all purposes of the law, the name under which the registered non-Hong Kong company is to carry on business in Hong Kong.

(7) Subsection (6) does not affect any rights or obligations vested in the registered non-Hong Kong company under the corporate name or the old approved name.

(8) Subsection (6) does not render defective any legal proceedings by or against the registered non-Hong Kong company. If there are any legal proceedings that might have been commenced or continued by or against that company by the corporate name or the old approved name, those proceedings may be commenced or continued by or against it by the new approved name in relation to the corporate name.

Division 5 – Authorized Representatives of Registered Non-Hong Kong Companies

16.13 Company must keep authorized representative's required details registered in Register

(1) This section applies if –

- (a) a person is registered in the Register as an authorized representative of a registered non-Hong Kong company;
- (b) the person ceases to be such a representative; and
- (c) after the cessation, no person is registered in the Register as an authorized representative of the company.

(2) Within one month after the person ceases to be an authorized representative of the registered non-Hong Kong company, that company must deliver to the Registrar for registration under section 16.18(1) a return in respect of another person as an authorized representative of the company.

(3) Subsection (2) does not apply to the registered non-Hong Kong company if, when the person ceases to be an authorized representative of that

company, it has ceased to have a place of business in Hong Kong for at least 11 months.

(4) If a registered non-Hong Kong company contravenes subsection (2), the company, and every officer or agent of the company who authorizes or permits, participates in, or fails to take all reasonable steps to prevent, the contravention, commit an offence, and each is liable to a fine at level 5 and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.

16.14 Termination of authorization

(1) A person registered in the Register as an authorized representative of a registered non-Hong Kong company may terminate the authorization by sending to the company's registered office (or the equivalent) in its place of incorporation a written notice of termination stating the date of termination.

(2) A registered non-Hong Kong company may terminate the authorization of a person registered in the Register as an authorized representative of the company by sending to the person's address shown in the Register a written notice of termination stating the date of termination.

(3) After sending a notice of termination under subsection (1) or (2), the sender must, within one month after the date of the notice, notify the Registrar, in writing, of the date of termination.

(4) A notification under subsection (3) must –

(a) be in the specified form; and

(b) be accompanied by the documents prescribed by procedural regulations.

(5) A notification under subsection (3) –

(a) if given by a person registered as an authorized representative of a registered non-Hong Kong company, must contain a statement by the person that the company

has been notified of the termination under subsection (1);
or

(b) if given by a registered non-Hong Kong company, must contain a statement by the company that the person registered as an authorized representative of the company has been notified of the termination under subsection (2).

(6) If an authorization is terminated under subsection (1) or (2), the termination takes effect on whichever is the later of the following –

(a) the date of termination stated in the notice of termination;

(b) the expiration of 21 days after subsection (3) is complied with.

Division 6 – Returns and Accounts of Registered Non-Hong Kong Companies

16.15 Company must deliver annual return for registration

(1) Within 42 days after each anniversary of the date on which the certificate of registration was issued under section 16.4(4)(a) or the predecessor Ordinance, a registered non-Hong Kong company must deliver to the Registrar a return for registration.

(2) A return must –

(a) be in the specified form;

(b) contain the particulars prescribed by procedural regulations; and

(c) be accompanied by the documents prescribed by procedural regulations.

(3) If a registered non-Hong Kong company contravenes subsection (1), the company, and every officer or agent of the company who authorizes or permits, participates in, or fails to take all reasonable steps to prevent, the contravention, commit an offence, and each is liable to a fine at level 5 and, in

the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.

(4) If a registered non-Hong Kong company, or an officer or agent of a registered non-Hong Kong company, is convicted of an offence under subsection (3), the magistrate may, in addition to any penalty that may be imposed, order the company, or the officer or agent, to deliver to the Registrar a return for registration within a time specified in the order.

(5) If a registered non-Hong Kong company, or an officer or agent of a registered non-Hong Kong company, fails to comply with an order under subsection (4), the company, or the officer or agent, commits an offence and is liable to a fine at level 5 and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.

16.16 Company must deliver accounts for registration

(1) This section applies if a registered non-Hong Kong company is required to publish its accounts, or to deliver copies of its accounts to any person in whose office the accounts may be inspected as of right by members of the public –

- (a) by the law of its place of incorporation; or
- (b) by either of the following, but not by the law of its place of incorporation –
 - (i) the law of any other jurisdiction where it is registered as a company;
 - (ii) the rules of any stock exchange or similar regulatory bodies in that jurisdiction.

(2) When the registered non-Hong Kong company delivers to the Registrar a return for registration under section 16.15, it must also deliver to the Registrar for registration –

- (a) in the case of subsection (1)(a), a certified copy of its latest published accounts for a period of at least 12 months that comply with the law of its place of incorporation; or
- (b) in the case of subsection (1)(b), a certified copy of its latest published accounts for a period of at least 12 months that comply with any of the law or rules mentioned in subparagraphs (i) and (ii) of that subsection.

(3) If a registered non-Hong Kong company contravenes subsection (2), the company, and every officer or agent of the company who authorizes or permits, participates in, or fails to take all reasonable steps to prevent, the contravention, commit an offence, and each is liable to a fine at level 5 and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.

(4) If a registered non-Hong Kong company, or an officer or agent of a registered non-Hong Kong company, is convicted of an offence under subsection (3), the magistrate may, in addition to any penalty that may be imposed, order the company, or the officer or agent, to deliver to the Registrar the certified copy of any accounts mentioned in subsection (2)(a) or (b) for registration within a time specified in the order.

(5) If a registered non-Hong Kong company, or an officer or agent of a registered non-Hong Kong company, fails to comply with an order under subsection (4), the company, or the officer or agent, commits an offence and is liable to a fine at level 5 and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.

(6) In this section, a reference to a certified copy of any accounts is, if the accounts are not in English or Chinese, a reference to a certified translation of the accounts in English or Chinese.

16.17 Directors may revise accounts not complying with certain requirement

(1) If a certified copy of any accounts has been delivered to the Registrar for registration under section 336 of the predecessor Ordinance or section 16.16, and it appears to the directors of the registered non-Hong Kong company that the accounts did not comply with the regulatory requirement specified in subsection (2), those directors may revise the accounts.

(2) The regulatory requirement is –

(a) in relation to the accounts of a registered non-Hong Kong company to which section 336(1) of the predecessor Ordinance or section 16.16(1)(a) applies, the law of its place of incorporation; or

(b) in relation to the accounts of a registered non-Hong Kong company to which section 336(2) of the predecessor Ordinance or section 16.16(1)(b) applies –

(i) the law of any other jurisdiction where it is registered as a company; or

(ii) the rules of any stock exchange or similar regulatory bodies in that jurisdiction.

(3) A revision of the accounts must be confined to –

(a) those aspects in which the accounts did not comply with the regulatory requirement specified in subsection (2); and

(b) other necessary consequential revisions.

(4) If the directors of a registered non-Hong Kong company decide to revise any accounts under subsection (1), the company must, as soon as practicable after the decision, deliver to the Registrar for registration a warning statement, in the specified form, that the accounts will be so revised.

(5) If a registered non-Hong Kong company contravenes subsection (4), the company, and every officer or agent of the company who authorizes or permits, participates in, or fails to take all reasonable steps to prevent, the

contravention, commit an offence, and each is liable to a fine at level 5 and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.

16.18 Company must deliver return for registration in case of change of certain particulars

(1) If there is, in relation to a registered non-Hong Kong company, a change specified in subsection (2), the company must, within one month after the date of the change, deliver to the Registrar for registration a return containing the particulars of the change.

(2) The change is one made in –

- (a) the charter, statutes or memorandum (including articles, if any) of the registered non-Hong Kong company, or other instruments defining the company's constitution;
- (b) the directors, secretary (or, where there are joint secretaries, each of them) or authorized representatives of the company;
- (c) the particulars of the directors, secretary (or, where there are joint secretaries, each of them) or authorized representatives of the company delivered to the Registrar under this Part; or
- (d) the address of the company's principal place of business in Hong Kong or of its registered office (or the equivalent), or its principal place of business, in its place of incorporation.

(3) A return must –

- (a) be in the specified form;
- (b) contain the particulars prescribed by procedural regulations; and

(c) be accompanied by the documents prescribed by procedural regulations.

(4) If a registered non-Hong Kong company contravenes subsection (1), the company, and every officer or agent of the company who authorizes or permits, participates in, or fails to take all reasonable steps to prevent, the contravention, commit an offence, and each is liable to a fine at level 5 and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.

Division 7 – Other Obligations

16.19 Non-Hong Kong company must state names, place of incorporation, etc.

(1) A non-Hong Kong company must, in every prospectus inviting subscriptions for its shares or debentures in Hong Kong –

- (a) state its place of incorporation; and
- (b) if applicable, state in legible characters that the liability of its members is limited.

(2) A non-Hong Kong company must, on every place where it carries on business in Hong Kong –

- (a) conspicuously exhibit its name and its place of incorporation; and
- (b) if applicable, conspicuously exhibit a notice of the fact that the liability of its members is limited.

(3) A non-Hong Kong company must, in every bill-head, letter paper, notice and other official publication of the company in Hong Kong –

- (a) state in legible characters its name and its place of incorporation; and
- (b) if applicable, state in legible characters that the liability of its members is limited.

(4) If a non-Hong Kong company is in liquidation, it must, in every advertisement of the company in Hong Kong –

- (a) state in legible characters its name and its place of incorporation; and
- (b) if applicable, state in legible characters that the liability of its members is limited.

(5) If a non-Hong Kong company is in liquidation, it must comply with subsection (6) –

- (a) when exhibiting its name under subsection (2); or
- (b) when stating its name under subsection (3) or (4).

(6) The non-Hong Kong company must –

- (a) if its name is in a language other than Chinese, add “(in liquidation)” after the name;
- (b) if its name is in Chinese, add “(正進行清盤)” after the name; or
- (c) if its name is in Chinese and in a language other than Chinese –
 - (i) add “(正進行清盤)” after the name in Chinese; and
 - (ii) add “(in liquidation)” after the name in that other language.

(7) If a non-Hong Kong company contravenes subsection (1), (3), (4) or (5), the company, and every officer or agent of the company who authorizes or permits, participates in, or fails to take all reasonable steps to prevent, the contravention, commit an offence, and each is liable to a fine at level 5.

(8) If a non-Hong Kong company contravenes subsection (2), the company, and every officer or agent of the company who authorizes or permits, participates in, or fails to take all reasonable steps to prevent, the contravention, commit an offence, and each is liable to a fine at level 3 and, in the case of a

continuing offence, to a further fine of \$300 for each day during which the offence continues.

(9) In this section, a reference to a non-Hong Kong company's name is –

- (a) in the case of a registered non-Hong Kong company, a reference to the company's corporate name; or
- (b) in the case of a registered non-Hong Kong company with an approved name, in relation to a corporate name, shown in the Register, a reference to the company's corporate name and approved name.

16.20 Registered non-Hong Kong company must notify Registrar of commencement of liquidation etc.

(1) Within 14 days after the later of the dates specified in subsection (2), a registered non-Hong Kong company must deliver to the Registrar for registration a notice, in the specified form, containing –

- (a) the particulars specified in subsection (3); and
- (b) if a person is appointed as liquidator or provisional liquidator, the further particulars specified in subsection (4).

(2) The dates are –

- (a) the date of commencement of any proceedings for the liquidation of the registered non-Hong Kong company; and
- (b) the date on which the notice of commencement of such proceedings was served on the company according to the law of the place in which those proceedings are commenced.

(3) The particulars are –

- (a) the date of commencement of the proceedings for the liquidation of the registered non-Hong Kong company;
 - (b) the country where the proceedings are commenced; and
 - (c) whether the liquidation is a voluntary or compulsory liquidation, or is in another mode of liquidation as specified in the notice under subsection (1).
- (4) The further particulars are –
 - (a) whether the person is appointed as liquidator or provisional liquidator;
 - (b) whether the person is a sole liquidator, or one of the joint, or joint and several, liquidators;
 - (c) the date of the appointment; and
 - (d) the following details of the person –
 - (i) in the case of a natural person, the present forename and surname, the address, and the number of the identity card or, if the person does not have an identity card, the number and issuing country of any passport held by the person; or
 - (ii) in any other case, the name and the address.
- (5) Subsection (6) applies if –
 - (a) any change occurs in the particulars contained in a notice under subsection (1);
 - (b) a liquidator or provisional liquidator is appointed after such a notice is delivered to the Registrar for registration; or
 - (c) the liquidator or provisional liquidator whose name is contained in such a notice has ceased to hold office as such.
- (6) Within 14 days after the change, appointment or cessation, the registered non-Hong Kong company must deliver to the Registrar for registration

a notice, in the specified form, containing the particulars of the change, the further particulars specified in subsection (4) of the liquidator or provisional liquidator appointed, or the date of the cessation to hold office as liquidator or provisional liquidator.

(7) If a registered non-Hong Kong company contravenes subsection (1) or (6), the company, and every officer or agent of the company who authorizes or permits, participates in, or fails to take all reasonable steps to prevent, the contravention, commit an offence, and each is liable to a fine at level 3 and, in the case of a continuing offence, to a further fine of \$300 for each day during which the offence continues.

(8) In this section –
“forename” (名字) includes a Christian or given name;
“surname” (姓氏), in the case of a person usually known by a title different from the person’s surname, means the title.

16.21 Registered non-Hong Kong company must notify Registrar of cessation of place of business in Hong Kong

(1) If a registered non-Hong Kong company ceases to have a place of business in Hong Kong, the company must, within 7 days after the cessation, deliver to the Registrar a notice, in the specified form, of that fact.

- (2) On receiving a notice, the Registrar must –
- (a) register the notice in relation to the registered non-Hong Kong company; and
 - (b) enter in the Register a statement that the company has ceased to have a place of business in Hong Kong.

(3) If a registered non-Hong Kong company contravenes subsection (1), the company, and every officer or agent of the company who authorizes or permits, participates in, or fails to take all reasonable steps to prevent, the contravention, commit an offence, and each is liable to a fine at level 3 and, in

the case of a continuing offence, to a further fine of \$300 for each day during which the offence continues.

16.22 Authorized representative of registered non-Hong Kong company must notify Registrar of dissolution

(1) If a registered non-Hong Kong company is dissolved, an authorized representative of the company must, within 14 days after the date of dissolution, deliver to the Registrar –

- (a) a notice, in the specified form, of that fact; and
- (b) a certified copy of the instrument effecting the dissolution or, in the case of an instrument not in English or Chinese, a certified translation of the instrument in English or Chinese.

(2) On receiving a notice and document under subsection (1), the Registrar must –

- (a) register the notice and document in relation to the registered non-Hong Kong company; and
- (b) enter in the Register a statement that the company has been dissolved.

(3) If an authorized representative of a registered non-Hong Kong company contravenes subsection (1), the authorized representative commits an offence and is liable to a fine at level 3 and, in the case of a continuing offence, to a further fine of \$300 for each day during which the offence continues.

(4) If a person is charged under subsection (3), it is a defence to establish that the person took all reasonable steps to secure compliance with subsection (1).

Division 8 – Striking off

16.23 Registrar may send inquiry letter to registered non-Hong Kong company

(1) If the Registrar has reasonable cause to believe that a registered non-Hong Kong company has ceased to have a place of business in Hong Kong, the Registrar may send to the company by post a letter inquiring whether the company has ceased to have a place of business in Hong Kong.

(2) A letter must be addressed –

(a) to an authorized representative of the registered non-Hong Kong company whose required details are shown in the Register; or

(b) if no required details of authorized representatives of the company are shown in the Register, to any place of business established by the company in Hong Kong.

(3) If the Registrar is of the opinion that a letter under subsection (1) is unlikely to be received by the registered non-Hong Kong company, the Registrar may, instead of sending a letter under that subsection, publish in the Gazette a notice that, unless cause is shown to the contrary, the company's name will be struck off the Register, and the company will no longer be a registered non-Hong Kong company, at the end of 3 months after the date of the notice.

16.24 Registrar must follow up if no answer to inquiry letter

(1) If the Registrar does not receive a reply to the letter within one month after sending it under section 16.23(1), the Registrar must, within 30 days after the end of that one month –

(a) subject to subsection (3), send to the registered non-Hong Kong company by registered post another letter referring to the letter sent under that section and stating that no reply to it has been received; and

(b) publish in the Gazette a notice that, unless cause is shown to the contrary, the company's name will be struck off the Register, and the company will no longer be a registered

non-Hong Kong company, at the end of 3 months after the date of the notice.

- (2) A letter must be addressed –
 - (a) to an authorized representative of the registered non-Hong Kong company whose required details are shown in the Register; or
 - (b) if no required details of authorized representatives of the company are shown in the Register, to any place of business established by the company in Hong Kong.

(3) The Registrar is not required to send a letter to the registered non-Hong Kong company under subsection (1)(a) if the Registrar is of the opinion that the letter is unlikely to be received by the company.

16.25 Registrar may strike off registered non-Hong Kong company's name

(1) After publishing a notice under section 16.23(3) or 16.24(1)(b), the Registrar may, unless cause is shown to the contrary, strike the registered non-Hong Kong company's name off the Register at the end of 3 months after the date of the notice.

(2) The Registrar must publish in the Gazette a notice indicating that the non-Hong Kong company's name has been struck off the Register.

(3) On the publication of the notice under subsection (2), the non-Hong Kong company is no longer a registered non-Hong Kong company.

(4) The non-Hong Kong company must not have a place of business in Hong Kong as long as it is not a registered non-Hong Kong company.

(5) If a non-Hong Kong company contravenes subsection (4), the company, and every officer or agent of the company who authorizes or permits, participates in, or fails to take all reasonable steps to prevent, the contravention, commit an offence, and each is liable to a fine at level 5 and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.

16.26 Application to Registrar for restoration of non-Hong Kong company

- (1) This section applies if a non-Hong Kong company's name –
 - (a) has been struck off the Register under section 16.25; or
 - (b) has been struck off the register of companies by virtue of section 339A(2) of the predecessor Ordinance.

(2) A person who is a director or member of the non-Hong Kong company may apply to the Registrar for the restoration of the company to the Register.

(3) An application must be made within 6 years after the date of the striking off. For this purpose, an application is made when it is received by the Registrar.

- (4) An application must be accompanied by a statement –
 - (a) that the applicant is a director or member of the non-Hong Kong company; and
 - (b) that the conditions specified in section 16.27(2) are met.

(5) The Registrar may accept the statement as sufficient evidence of the matters mentioned in subsection (4)(a) and (b).

16.27 Conditions for granting application

(1) The Registrar must not grant an application made under section 16.26 unless all the conditions specified in subsection (2), and any other conditions that the Registrar thinks fit, are met.

- (2) The conditions are –
 - (a) the non-Hong Kong company had, at the time its name was struck off the Register, a place of business in Hong Kong; and
 - (b) the applicant has delivered to the Registrar the documents relating to the non-Hong Kong company that are necessary to bring up to date the records kept by the Registrar.

16.28 Registrar's decision on application

(1) The Registrar must notify the applicant of the decision on an application made under section 16.26.

(2) If the Registrar grants the application, the non-Hong Kong company is restored to the Register on the date on which notification is given under subsection (1), and the Registrar must register the notification and publish in the Gazette a notice of the restoration.

(3) On the restoration, the striking off is to be regarded as not having taken place.

Division 9 – Miscellaneous

16.29 Service of process or notice

(1) Subject to subsections (3) and (4), any process or notice required to be served on a registered non-Hong Kong company is sufficiently served if –

- (a) it is addressed to an authorized representative of the company whose required details are shown in the Register; and
- (b) it is left at, or sent by post to, the representative's last known address.

(2) Subsections (3) and (4) apply if –

- (a) no required details of authorized representatives of a registered non-Hong Kong company are shown in the Register; or
- (b) every one of the company's authorized representatives refuses to accept service on behalf of the company or the process or notice cannot be served on any of them.

(3) Any process or notice required to be served on the registered non-Hong Kong company is sufficiently served if it is left at, or sent by post to, any place of business established by the company in Hong Kong.

(4) In the case of a registered non-Hong Kong company that no longer has a place of business in Hong Kong, any process or notice required to be served on the company is sufficiently served –

- (a) if –
 - (i) it is sent by registered post to the company's registered office (or the equivalent) in the company's place of incorporation at the address as shown in the Register; and
 - (ii) a copy of it is sent by registered post to the company's principal place of business (if any) in the company's place of incorporation at the address as shown in the Register; or
- (b) where no such addresses are shown in the Register, if it is left at, or sent by post to, any place in Hong Kong at which the company has had a place of business within the previous 12 months.

16.30 Chief Executive in Council may make regulations

(1) The Chief Executive in Council may by regulations provide for the application of this Ordinance in relation to the accounts that have been revised under section 16.17.

- (2) Those regulations may –
 - (a) make different provisions according to whether the accounts have been revised by –
 - (i) supplementing the accounts with another document that shows the revisions; or
 - (ii) replacing the accounts;
 - (b) require a registered non-Hong Kong company to take the steps specified in the regulations in relation to the accounts that have been revised;

- (c) apply this Ordinance to the accounts that have been revised subject to such additions, exceptions and modifications as specified in the regulations; and
 - (d) provide for incidental, consequential and transitional provisions.
- (3) Those regulations may provide that any of the following is an offence –
 - (a) a failure to take all reasonable steps to secure compliance as respects the accounts that have been revised with –
 - (i) a specified provision of the regulations; or
 - (ii) a specified provision of this Ordinance as having effect under the regulations;
 - (b) a contravention of –
 - (i) a specified provision of the regulations; or
 - (ii) a specified provision of this Ordinance as having effect under the regulations.
- (4) Those regulations may –
 - (a) provide that –
 - (i) an offence committed wilfully is punishable by a fine not exceeding \$300,000, or by a term of imprisonment not exceeding 12 months, or by both such fine and imprisonment; and
 - (ii) an offence not committed wilfully is punishable by a fine not exceeding \$300,000;
 - (b) provide that, in the case of a continuing offence, such an offence is punishable by a further fine not exceeding \$2,000 for each day during which the offence continues; and
 - (c) provide for any specified defence to be available in proceedings for such an offence.

16.31 Financial Secretary may make regulations

- (1) The Financial Secretary may by regulations prescribe –
 - (a) the particulars to be contained in an application under section 16.3(2) or (3);
 - (b) the documents to accompany an application under section 16.3(2) or (3);
 - (c) the documents to accompany a notification under section 16.14(3);
 - (d) the particulars to be contained in a return under section 16.15(1) or 16.18(1); and
 - (e) the documents to accompany a return under section 16.15(1) or 16.18(1).

- (2) The Financial Secretary may by regulations –
 - (a) provide that an application under section 16.3(2) or (3), or a return under section 16.5(2), may contain a certified translation of a domestic name of the non-Hong Kong company; and
 - (b) provide for the procedures and requirements for the purpose.

(3) Subsection (2) does not apply to an application or return that is required by section 16.3(5) or 16.5(8) to contain a certified translation of a domestic name.

16.32 Transitional arrangements

(1) If, immediately before the commencement of Division 2, there was a pending application for registration under section 333(1) of the predecessor Ordinance, the application is to be regarded as an application for registration made under section 16.3(2).

- (2) If –

- (a) a return was delivered to the Registrar for registration under section 335(2) of the Companies Ordinance (Cap. 32) as in force immediately before the commencement of Division 3; and
- (b) as at that commencement, the Registrar has not registered the return and issued a fresh certificate of registration under section 335(3) of that Ordinance because the Registrar has not received all the documents mentioned in section 335(2)(b) of that Ordinance,

the return is to be regarded as a return delivered to the Registrar for registration under section 16.5.

(3) Despite the repeal of section 337B of the predecessor Ordinance, a notice that was served under that section, and was in force immediately before the commencement of Division 4, continues in force and has effect as if it were a notice served under section 16.7.

(4) If, before the commencement of Division 8, the Registrar has sent a letter to a non-Hong Kong company under section 291(1) of the predecessor Ordinance inquiring whether the company has ceased to have a place of business in Hong Kong, the provisions of that Ordinance relating to the striking off the register of companies of the names of defunct companies continue to extend and apply by virtue of section 339A(2) of that Ordinance as if those provisions, and that section 339A(2), had not been repealed.

16.33 Savings for certificates previously issued

- (1) This section applies to a certificate –
 - (a) that was issued under –
 - (i) section 333(3) or (5) of the Companies Ordinance (Cap. 32) as in force from time to time before 14 December 2007; or

(ii) section 333AA(2)(c) or 335(3) of the Companies Ordinance (Cap. 32) as in force immediately before the commencement of this Part; and

(b) that was in force immediately before that commencement.

(2) Despite the repeal of those sections, the certificate continues in force and has effect as if it were a certificate issued under section 16.4(4)(a) or 16.6(1)(b), as the case may be.