
BUTTERWORTHS HONG KONG
Securities Law
HANDBOOK
Eighth Edition (Volume 1)
BUTTERWORTHS HONG KONG SECURITIES LAW HANDBOOK
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Securities Law Handbook

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The commentary in this book states the law as at 1 April 2026.

[91.03] Definitions

For 'recognized exchange company', 'recognized clearing house', 'recognized exchange controller', 'recognized investor compensation company', 'exchange participant', 'clearing participant', 'compensation fund', 'information', 'function' and 'relevant provisions', see Sch 1 Pt 1, s 1 below.

92. Additional powers of Commission—restriction notices

(1) Subject to subsections (2), (6) and (14), where the Commission is satisfied that it is appropriate to do so—

(a) in the interest of the investing public or in the public interest;

(b) for the protection of investors; or

(c) for the proper regulation of a recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company,

it may by notice in writing (***restriction notice***) served on the exchange company, clearing house, exchange controller or investor compensation company do any or all of the following—

(i) require the exchange company, clearing house, exchange controller or investor compensation company before the expiry of a period specified in the notice—

(A) to amend, supplement, withdraw or revoke, in the manner specified in the notice, a provision of its rules or other instrument so specified;

(B) to take such action relating to the management, conduct or operation of its business as may be so specified;

(ii) prohibit the exchange company, clearing house, exchange controller or investor compensation company from doing, during a period so specified, such act or other thing relating to the management, conduct or operation of its business as may be so specified.

(2) The Commission shall not serve a restriction notice unless—

(a) it has previously consulted the Financial Secretary in relation to the notice;

(b) it has previously requested in writing the exchange company, clearing house, exchange controller or

investor compensation company concerned to put, or cause to be put, into effect a provision (which includes a request to refrain from doing any act or other thing) specified in the request and similar in effect to the requirement or prohibition specified in the restriction notice or, where there is more than one such requirement or prohibition so specified, provisions the combined effect of all of which is similar to the combined effect of the requirements or prohibitions so specified; and

(c) in the case of a request under paragraph (b) which—

(i) contains a provision requesting the exchange company, clearing house, exchange controller or investor compensation company concerned to amend, supplement, withdraw or revoke any provision of its constitution under subsection (1)(i), the provision has not been complied with before the expiration of the period specified in relation thereto in the request being not less than 45 days; or

(ii) contains a provision requesting the exchange company, clearing house, exchange controller or investor compensation company concerned to do or refrain from doing any act or other thing, the Commission is satisfied that the provision has not been complied with.

(3) A recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company may appeal to the Chief Executive in Council against a restriction notice that requires the exchange company, clearing house, exchange controller or investor compensation company to amend, supplement, withdraw or revoke any provision of its constitution.

(4) The decision of the Chief Executive in Council on an appeal under subsection (3) shall be final.

(5) A restriction notice served under this section shall take effect immediately.

(6) A period specified in a restriction notice in relation to a prohibition under subsection (1)(ii) shall not exceed 6 months beginning on the date of the notice.

(7) The Commission may, after consultation with the Financial Secretary, by notice in writing served on the exchange

company, clearing house, exchange controller or investor compensation company concerned, extend, for a period or successive periods of not more than 3 months each, the period during which a restriction notice is to remain in force.

(8) Where a restriction notice is issued or extended under this section, the Commission may publish in the Gazette a copy of the notice or, as may be appropriate, particulars of the extension.

(9) A restriction notice may, on the application of the Commission to the Court of First Instance, be enforced by an order of the Court as if it were a judgment or order of the Court.

(10) Where a recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company is in breach of a requirement in a restriction notice under subsection (1)(i)(A) relating to a provision of its rules or other instrument—

(a) in the case of a requirement to amend or supplement such provision, the provision shall be deemed to have effect as if the requirement had been complied with; or

(b) in the case of a requirement to withdraw or revoke such provision, the provision ceases to have effect.

(11) Where—

(a) a restriction notice includes a requirement described in subsection (1)(i)(A) and the requirement relates to the constitution of a company; and

(b) by virtue of subsection (10) the provision to which the requirement relates has effect as if the requirement had been complied with or has ceased to have effect (as the case may be),

the Commission shall, as soon as may be, deliver to the Registrar of Companies a copy of the notice.

(12) If there is an appeal under subsection (3) against the notice and the appeal is not withdrawn, the Commission shall, as soon as may be, inform the Registrar of Companies in writing of the outcome of the appeal.

(13) Without limiting the generality of section 380(1), no civil liability, whether arising in contract, tort, defamation, equity or otherwise, shall be incurred by—

(a) a recognized exchange company, recognized clearing house, recognized exchange controller or recognized

investor compensation company;

(b) an officer or employee of a recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company;

(c) an exchange participant; or

(d) a clearing participant,

in respect of anything done or omitted to be done in good faith in compliance or purported compliance with a restriction notice.

(14) This section shall not be construed as enabling the Commission to do under this section anything which may be done by the Commission by direction under section 28(1)(b) or 29.

[92.01] Enactment history

This section came into effect 1 April 2003. This section is based on s 50 of the repealed Securities and Futures Commission Ordinance (Cap 24).

[92.02] General note

This section enables the SFC to serve on an exchange company, clearing house, exchange controller or investor compensation company a restriction notice. Such a notice would require them to amend, supplement, withdraw or revoke a provision of their rules or other instrument. Such notices may also require they take such action relating to the management, conduct or operation of their business as required. Such actions must either be in the interest of the investing public or in the public interest to do so, or for the protection of investors, or the proper regulation of the recognised exchange company, recognised clearing house, recognised exchange controller or recognised investor compensation company.

Subsection (3) provides for a right of appeal against a restriction notice to the Chief Executive in Council. The decision made by the Chief Executive in Council in respect of the restriction notice is final.

[92.03] Definitions

For 'recognized exchange company', 'recognized clearing house', 'recognized exchange controller', 'recognized investor compensation company', 'constitution', 'exchange participant' and 'clearing participant', 'compensation fund', see Sch 1 Pt 1, s 1 below. For 'Financial Secretary', see **[19.06]** above. For 'Gazette' and 'Chief Executive in Council', see s 3 of the Interpretation and General Clauses Ordinance (Cap 1). For 'interest of investing public', see **[19.04]** above.

93. Additional powers of Commission—suspension orders

(1) Where the Commission is satisfied that it is appropriate to do so—

(a) in the interest of the investing public or in the public interest;

(b) for the protection of investors; or

(c) for the proper regulation of a recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company,

it may, after consultation with the Financial Secretary, make an order (***suspension order***) relating to all or any of the following—

(i) the functions of the board of directors or governing body of the exchange company, clearing house, exchange controller or investor compensation company;

(ii) the functions of a director of a board or a member of a body referred to in paragraph (i);

(iii) the functions of a committee, including a sub-committee, established by a board or body referred to in paragraph (i);

(iv) the functions of the chief executive officer (by whatever name called) of the exchange company, clearing house, exchange controller or investor compensation company.

(2) While a suspension order is in force the following provisions apply—

(a) neither the recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company to which the order relates nor any board, governing body, committee or officer of it shall perform a function to which the order relates;

(b) a function to which paragraph (a) applies may be performed by the person specified in the order in relation to that function;

(c) a person referred to in paragraph (a) shall not, by act or omission, either directly or indirectly, affect the manner in which a function referred to in that paragraph is performed.

(3) A recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company may appeal to the Chief Executive in Council against a suspension order made in respect of the exchange company, clearing house, exchange controller or investor compensation company.

(4) The decision of the Chief Executive in Council on an appeal under subsection (3) shall be final.

(5) Subject to subsection (9), a suspension order shall continue in force for the period not exceeding 6 months specified in the order.

(6) A suspension order or an extension of it under subsection (9) shall take effect when a copy of the order or notice of the extension is served under subsection (10)(a) on the exchange company, clearing house, exchange controller or investor compensation company to which the order relates.

(7) Where a suspension order is made or extended under this section, the Commission shall, as soon as reasonably practicable to do so, give a copy of a suspension order or, as may be appropriate, notice of its extension to the chief executive officer of the exchange company, clearing house, exchange controller or investor compensation company to which the order relates and to the directors or members of its committee (if any) as the Commission considers appropriate in the circumstances.

(8) Nothing in subsection (7) affects subsection (6).

(9) The Commission may, after consultation with the Financial Secretary, extend for a period or successive periods of not more than 3 months each the period during which a suspension order is to remain in force.

(10) Where a suspension order is made or extended under this section, the Commission shall—

(a) forthwith serve a copy of the order or notice in writing of the extension on the exchange company, clearing house, exchange controller or investor compensation company to which the order relates; and

(b) publish in the Gazette and publish through at least one other medium a copy of the suspension order or, as may be appropriate, notice of its extension.

(11) A suspension order may, on the application of the Commission

to the Court of First Instance, be enforced by an order of the Court as if it were a judgment or order of the Court.

(12) The exchange company, clearing house, exchange controller or investor compensation company concerned shall pay to the Commission on demand costs and expenses reasonably incurred by the Commission or a member or employee of the Commission in connection with a suspension order.

(13) The amount of the costs and expenses demanded under subsection (12) are recoverable by the Commission as a civil debt.

(14) A person who knowingly contravenes subsection (2)(c) commits an offence and is liable—

(a) on conviction on indictment to a fine of $1,000,000 and to imprisonment for 2 years; or

(b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

[93.01] Enactment history

This section came into effect 1 April 2003. This section is based on s 51 of the repealed Securities and Futures Commission Ordinance (Cap 24).

[93.02] General note

This section empowers the SFC to issue suspension orders in respect of the functions of the board of directors or governing body, a director or member of the governing body, a committee or sub-committee and the Chief Executive Officer. Such suspension will be ordered if it is in the interest of the investing public or in the public interest to do so, or if it is necessary for the protection of investors, or the proper regulation of the recognised exchange company, recognised clearing house, recognised exchange controller or recognised investor compensation company. A suspension order may be enforced by the Court of First Instance.

[93.03] Definitions

For 'recognized exchange company', 'recognized clearing house', 'recognized exchange controller', 'recognized investor compensation company', 'function' and 'director', see Sch 1 Pt 1, s 1 below. For 'Financial Secretary', see [19.06] above. For 'Gazette' and 'Chief Executive in Council', see s 3 of the Interpretation and General Clauses Ordinance (Cap 1). For 'interest of investing public', see [19.04] above. As to level of fines, a level 6 fine is set at HK$ 100,000—see s 113B and Sch 8 of the Criminal Procedure Ordinance (Cap 221).

94. Application of Companies Ordinance and Companies (Winding Up and Miscellaneous Provisions) Ordinance

(Amended 28 of 2012 ss. 912 & 920)

Where there is any inconsistency between this Part and the Companies Ordinance (Cap. 622) or the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) in its application to a recognized exchange company, a recognized clearing house, a recognized exchange controller or a recognized investor compensation company, this Part prevails.

(Amended 28 of 2012 ss. 912 & 920)

[94.01] Enactment history

This section came into effect 1 April 2003, and is based on s 4 of the repealed Stock Exchanges Unification Ordinance (Cap 361). This section was amended by the Companies Ordinance (Cap 622), ss 912 and 920.

[94.02] General note

This section provides that where there is any inconsistency between Pt III of this Securities and Futures Ordinance (Cap 571) and the Companies Ordinance (Cap 622) or the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32), Pt III of this Ordinance shall prevail.

[94.03] Definitions

For 'recognized exchange company', 'recognized clearing house', 'recognized exchange controller' and 'recognized investor compensation company', see Sch 1 Pt 1, s 1 below.

Division 7—Automated trading services

95. Authorization for providing automated trading services

(1) No person shall—

(a) provide automated trading services; or

(b) offer to provide automated trading services,

unless that person—

(i) is authorized under subsection (2);

(ii) is an employee or agent of a person authorized under subsection (2), and is acting in that capacity for or on behalf of that person;

(iii) is an intermediary licensed or registered for Type 7 regulated activity;

(iv) is a licensed representative for Type 7 regulated activity, and is acting in that capacity for the licensed corporation to which the representative is accredited; or

(v) is an individual whose name is entered in the register maintained by the Monetary Authority under section 20 of the Banking Ordinance (Cap. 155) as that of a person engaged in respect of Type 7 regulated activity by a registered institution registered for that regulated activity, and is acting in that capacity for the registered institution.

(2) Where the Commission is satisfied that it is appropriate to do so, the Commission may upon application by a person, by notice in writing served on that person, authorize that person to provide automated trading services—

(a) subject to such conditions as it considers appropriate specified in the notice; and

(b) with effect from a date specified in the notice for the purpose.

(3) Where a person is granted an authorization under subsection (2), the Commission shall cause notice of that fact to be published in the Gazette.

(4) Where a person is seeking an authorization to provide automated trading services and the Commission is minded not to grant the authorization under subsection (2), the Commission shall give the person a reasonable opportunity of being heard before making a decision not to grant the authorization.

(5) Where the Commission refuses to authorize a person to provide automated trading services under subsection (2), the Commission shall, by notice in writing served on the person, inform the person of the refusal and of the reasons for it.

(6) The Commission shall prepare and publish in the Gazette or otherwise guidelines setting out the principles, procedures and standards in relation to authorization for providing automated trading services under this section.

(7) Guidelines published under subsection (6) are not subsidiary legislation.

(8) Subject to subsection (9), for the purposes of subsection (1)(b), a person offers to provide automated trading services only if the services are actively marketed, whether in Hong

Kong or elsewhere, to persons in Hong Kong by the first-mentioned person or by another person on his behalf.

(9) For the purposes of subsection (1)(b), a person shall not be regarded as offering to provide automated trading services if the persons to whom the offer is made are persons to whom the first-mentioned person or a related corporation thereof, at any time during the period of 3 years immediately preceding the day on which the offer is made, has provided or has agreed to provide any financial services, including automated trading services.

[95.01] Enactment history

This section came into effect 1 April 2003.

[95.02] General note

Under s 95, a person must not provide, or offer to provide automated trading services (ATS) unless the person is licensed or registered under Pt V, or is authorised under Pt III Div 7 of this Securities and Futures Ordinance (Cap 571). Contravention of s 95(1) is an offence: s 101. On the background to the provisions in Div 7 dealing with automated trading services, see: 'Report of the Securities and Futures Working Group on Automated Trading Services—Public Consultation' (February 1997); SFC's 'Guide to the Legislative Proposals on Automated Trading Systems and Related Issues' (5 July 1999).

[95.03] 'Automated trading services'

This term is defined in Sch 5 Pt 2 to mean services provided by means of electronic facilities:

(1) where offers to sell or purchase securities or futures contracts are regularly made or accepted in a way that forms or results in a binding transaction, in accordance with established methods: para (a) of the definition of 'automated trading services';

(2) where offers to enter into OTC derivative transactions are regularly made or accepted in a way that forms or results in a binding transaction in accordance with established methods: para (ab) of the definition; or

(3) in which persons are regularly introduced or identified to other persons in order that they may negotiate or conclude sales or purchases of securities or futures contracts, in a way that results in a binding transaction in accordance with established methods: para (b) of the definition; or

(4) in which persons are regularly introduced or identified to other persons (a) in order that they may negotiate or conclude OTC derivative transactions in a way that forms or results in a binding transaction in

accordance with established methods; or (b) with the reasonable expectation that they will negotiate or conclude OTC derivative transactions in such a way: para (ba) of the definition; or

(5) where such transactions, or transactions effected on or which are subject to the rules of a stock market or futures market, may be novated, cleared, settled or guaranteed: paras (c) and (d) of the definition.

The terms 'securities', 'futures contracts' and 'OTC derivative transactions' are defined in Sch 1 Pt 1, s 1. Electronic facilities in which offers to buy foreign currencies or goods or services are made would not come within the definition of ATS where the spot foreign currencies or goods or services are not securities or futures contracts or OTC derivatives transactions: SFC's 'Guidelines for the Regulation of Automated Trading Services' (September 2016), para 78.

OTC derivative transactions were included within the scope of 'automated trading services' via amendments made to the definition of the latter by the Securities and Futures (Amendment) Ordinance 2014 (6 of 2014). The amended definition partially commenced operation on 1 September 2016, as follows: the new paras (ab) and (ba) of the definition of 'automated trading services' commenced operation on 1 September 2016 in so far as they relate to the new para (d) of the definition of 'automated trading services'; the new para (d) of the definition of 'automated trading services' commenced operation on 1 September 2016 except in so far as it relates to Type 7 regulated activity under the Securities and Futures Ordinance (Cap 571).

Services coming within the definition of ATS could include the following:

(1) electronic trading systems established by brokerage firms—either on the broker's trading terminals, or through services linking the client's computer to the broker's system (eg, via the Internet);

(2) any system on the world wide web allowing persons to transact in securities or futures over the Internet, or bringing persons together so as to enter into such transactions.

However under sub-paras (a), (ab), (b) and (ba) of the definition in Sch 5, the sales or purchases which result must be made in a way that forms a binding transaction in accordance with established methods, including any method commonly used by a stock market or futures market. This element of the definition narrows its scope, to exclude services that do not provide established trade negotiation or matching services, or that merely provide order routing.

A person who simply provides the telecommunications, software or internet service facilities which are used by others to provide an ATS would also not be regarded as a person providing the ATS: SFC's 'Guidelines for the Regulation of Automated Trading Services' (September 2016), at para 77. See also the SFC's 'Consultation Conclusions on Draft Guidelines for the Regulation of Automated Trading Services' (February 2002), at paras 1.3–1.5; 'Report of the Securities and Futures Working Group on Automated Trading Services—Public Consultation' (February 1997).

The definition expressly excludes the following:

(1) Electronic facilities provided by a recognised exchange company or a recognised clearing house (which are recognised under ss 19 and 37 respectively). It was thought an additional layer of regulation was unnecessary for local exchange-run ATSs since local exchanges are already subject to regulation under Pt III Divs 2–4: see the 'Report of the Securities and Futures Working Group on Automated Trading Services—Public Consultation' (February 1997), at para 6.8; SFC's 'Guidelines for the Regulation of Automated Trading Services' (September 2016), para 8.

(2) Services provided by a corporation operated by or on behalf of the HKSAR government.

(3) Certain services (referred to as 'excluded services' in the definition) for trading or clearing OTC derivative products provided by authorised financial institutions, approved money brokers or persons licensed for Type 12 regulated activities.

[95.04] Offer to provide automated trading services: section 95(1)(b)

A person offers to provide automated trading services only where the services are actively marketed to persons in Hong Kong by that person, or another person on his behalf: s 95(8). Marketing of such services to existing clients would not be treated as offers falling within s 95(1)(b): s 95(9).

[95.05] ATS provided by overseas person

Where the ATS is provided by persons outside of Hong Kong, their conduct could come within s 95 if the ATS is marketed to persons in Hong Kong: see s 95(8) and **[95.04]** above; and see also SFC's 'Guidelines for the Regulation of Automated Trading Services' (September 2016), at para 75.

Where the ATS is provided by an overseas person (such as an overseas exchange) by placing its electronic facilities in Hong Kong or by offering direct or remote access rights to intermediaries or investors in Hong Kong via electronic facilities, such conduct is likely to fall within s 95: SFC's 'Guidelines for the Regulation of Automated Trading Services' (September 2016), at para 76.

In respect of authorisation of an overseas exchange under s 95(2), see also SFC's 'Guidelines for the Regulation of Automated Trading Services' (March 2003), at paras 40–42.

[95.06] Authorisation under section 95(2)

Unless a person is appropriately licensed or registered under Pt V, that person must be authorised under s 95(2) in order to provide ATS: s 95(1)(i). Authorisation is given by the SFC where it is satisfied that it is appropriate to do so, and such authorisation may be given conditionally: see ss 95(2)(a) and 97. The SFC has published guidelines pursuant to s 95(6) setting out the principles, procedures and standards in relation to authorisation: SFC's 'Guidelines for the Regulation of Automated Trading Services' (September 2016).

Under the guidelines (paras 14–38), a person providing ATS would be expected to meet appropriate standards in respect of the following:

(1) financial resources: ATS provider should have sufficient financial resources;
(2) risk management: risks must be managed prudently;
(3) system integrity: the electronic facilities must have a high degree of reliability, availability and security, and incorporate adequate capacity and contingency arrangements;
(4) governance: there should be robust governance arrangements to properly oversee management;
(5) access and participation;
(6) transparency: there should be transparency in relation to the ATS operations, products and transactional information;
(7) surveillance: to be performed by the ATS provider, a regulatory authority, or another competent person, in accordance with relevant market regulation practices in Hong Kong and internationally;
(8) record keeping: the ATS provider should keep full records of its ATS operations, including audit trails of ATS activity;
(9) reporting: the ATS provider must keep the relevant regulatory authorities informed of its operations and of material changes to those operations.

The SFC has stated that it will take a pragmatic approach to the regulation of ATSs, and that the level of regulation for any particular ATS will be commensurate with the functions it performs and the risks it poses: SFC's 'Guidelines for the Regulation of Automated Trading Services' (September 2016), at para 16.

For a list of authorised ATS providers, see the online register maintained by the SFC at http://www.sfc.hk accessed 13 April 2026.

[95.07] Intermediary licensed or registered for Type 7 regulated activity: section 95(1)(iii)

Intermediaries are licensed or registered for regulated activities under Pt V. Type 7 regulated activities refer to activities providing automated trading services: Sch 5 Pt 1. 'Automated trading services' is defined in Sch 5 Pt 2: see **[95.02]** above. Persons providing both ATS and traditional dealer functions should be licensed under Pt V rather than seeking authorisation under Pt III. Under the regulatory scheme, the ATS operations of brokers or other intermediaries are regulated under the general provisions of the Securities and Futures Ordinance (Cap 571) dealing with intermediaries: Pts V to X. In special circumstances, it may be necessary for an intermediary providing ATS to also apply for authorisation under s 95(2): ss 118(1)(c), 119(8)(b). The SFC has indicated that this may be required where, for example, it would be inappropriate to apply all of the Pt V requirements to the intermediary, because it does not handle clients' securities and funds, or where the nature of the ATS provider's business as a market operator makes it appropriate to subject it to rules under Pt III. See generally the SFC's 'Guidelines for the Regulation of Automated Trading Services' (September 2016), at paras 5–12.

[95.08] Licensed representative: section 95(1)(iv)

Representatives of licensed corporations are licensed under ss 120 and 121. Corporations are licensed as intermediaries under s 116. On 'Type 7 regulated activities', see Sch 5 and also **[95.07]** above.

[95.09] Persons acting for registered institutions: section 95(1)(v)

Section 20 of the Banking Ordinance (Cap 155) provides for a register maintained by the Monetary Authority. The register lists authorised financial institutions and persons acting on behalf of the institutions.

On 'Type 7 regulated activities', see Securities and Futures Ordinance (Cap 571), Sch 5 and also **[95.07]** above.

A 'registered institution' is an authorised financial institution (see s 2 of the Banking Ordinance) registered under the Securities and Futures Ordinance (Cap 571), s 119: Sch 1 Pt 1, s 1.

The effect of s 95(1)(v) is that a person may provide an ATS if that person is listed in the above register as a person engaged, in respect of the provision of ATSs, by a financial institution registered for the provision of ATSs, and that person is acting in that capacity for the financial institution.

[95.10] Operation of a stock market, futures market or CCP

The operation of an ATS could, depending on the precise facilities offered, come within the definition of 'stock market' or 'futures market' in Sch 1 Pt 1, s 1, so that its operation contravenes s 19 if the operator is not a recognised exchange company: see SFC's 'Guidelines for the Regulation of Automated Trading Services' (September 2016), at para 43.

In relation to restrictions on the operation of a futures market, an exemption applies where the person is licensed or registered for providing ATS or authorised under s 95(2). In such circumstances, the person is not treated as contravening s 19(1)(b) in relation to the prohibition on operating a futures market: s 19(9)(a)(i). There is no corresponding exemption where the ATS facilities come within the definition of stock market.

There may also be circumstances where the provision of an ATS could constitute the operation of a 'clearing house' or CCP (central counterparty). Persons seeking to operate a CCP in Hong Kong may either apply to become a recognised clearing house (see s 37) or apply to provide an ATS under Pt III of the Securities and Futures Ordinance (Cap 571). For a person to be a 'designated CCP' for the purpose of Part IIIA of this Ordinance (OTC derivative transactions), it is necessary for the person to be either a recognised clearing house or an authorised ATS provider under s 95(2): see s 101J(2)(a). Usually CCPs would be expected to become a recognised clearing house rather than a Pt III ATS provider in order to benefit from the insolvency override protections (ss 45–54) under the regime for recognised clearing houses: see SFC's 'Guidelines for the Regulation of Automated Trading Services' (September 2016), at para 46.

[95.11] Refusal of authorisation

The SFC must give a person a reasonable opportunity to be heard before making a decision not to grant authorisation: s 95(4). If authorisation is refused, the SFC must inform the applicant of the reasons for the refusal: s 95(5).

The decision to refuse authorisation can be appealed to the Securities and Futures Appeal Tribunal under Pt XI Div 2: see s 217 and item 2 of Sch 2 Pt 2, Div 1.

[95.12] Commission guidelines

See the SFC's 'Guidelines for the Regulation of Automated Trading Services' (September 2016) and also the consultation papers which preceded the publication of the guidelines: 'Consultation on Proposed Amendments to the Guidelines for the Regulation of Automated Trading Services' (November 2015); 'Consultation Conclusions on Proposed Amendments to the Guidelines for the Regulation of Automated Trading Services' (March 2016). The 2016 Guidelines replaced the former Guidelines issued in March 2003 (as to which, see also 'Consultation Paper on Draft Guidelines for the Regulation of Automated Trading Services' (March 2001); 'Consultation Conclusions on Draft Guidelines for the Regulation of Automated Trading Services' (February 2002).

The guidelines are not subsidiary legislation: s 95(7).

96. Application for authorization

(1) An application under section 95(2) shall be accompanied by—

(a) such information and particulars as the Commission may reasonably require; and

(b) an application fee prescribed by rules made under section 395 for the purposes of this section.

(2) Without limiting the generality of subsection (1)(a), an application under section 95(2) shall also be accompanied by such information as may reasonably be required by the Commission regarding—

(a) the services and facilities which the applicant will hold itself out as being able to provide if the application is allowed;

(b) the business which the applicant proposes to carry on and to which the application relates, and any person whom the applicant proposes to employ or with whom the applicant intends to be associated in the course of carrying on the business;

(c) the business which the applicant is carrying on, the officers it employs and the persons with whom the applicant is associated in the course of carrying on the business; and

(d) its directors and substantial shareholders and, if any of its substantial shareholders is a corporation, the directors and substantial shareholders of that corporation.

(3) In considering an application under section 95(2), the Commission may have regard to any information in its possession whether provided by the applicant or not.

[96.01] Enactment history

This section came into effect 1 April 2003.

[96.02] General note

Section 96 sets out certain procedural requirements for applications for authorisation to provide automated trading services pursuant to s 95(2). The section also deals with certain information which should be provided in such applications.

[96.03] Commission guidelines

See the SFC's 'Guidelines for the Regulation of Automated Trading Services' (September 2016) (issued under s 95(6)), paras 54–55 containing further details as to the information which needs to be submitted to the SFC.

[96.04] Application fee

The application fee which is to accompany the application is HK$ 10,000: Securities and Futures Ordinance (Cap 571), s 96(1)(b) and the Securities and Futures (Fees) Rules (Cap 571AF), Sch 3 item 1.

97. Conditions for authorization

(1) Without limiting the generality of conditions which may be specified in a notice under section 95(2), the Commission may, by notice in writing served on a person authorized under that section, amend or revoke any conditions specified under that section or impose new conditions, where the Commission is satisfied that it is appropriate to do so.

(2) Where the Commission amends or revokes any condition or imposes any new condition under subsection (1), the amendment, revocation or imposition takes effect at the time of service of the notice or at the time specified in the notice, whichever is the later.

(3) Without limiting the generality of subsection (1) or section

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Butterworths Hong Kong

Securities Law Handbook

Eighth Edition
2026

Volume 2

This is the Eighth Edition of the Butterworths Hong Kong Securities Law Handbook containing the legislation currently in force and annotations to the Securities and Futures Ordinance (Cap 571), and the relevant subsidiary legislation.

This title contained herein replaces the Seventh Edition, published in 2022.

MAY 2026

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The commentary in this book states the law as at 1 April 2026.

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