

An Ordinance to provide for the imposition of requirements relating to customer due diligence and record-keeping on specified financial institutions and designated non-financial businesses and professions; to provide for the powers of the relevant authorities and regulatory bodies to supervise compliance with those requirements and other requirements under this Ordinance; to provide for the regulation of the operation of a money service and the licensing of money service operators; to provide for the regulation of the operation of a trust or company service and the licensing of trust or company service providers; to provide for the regulation of activities involving virtual assets and the licensing of virtual asset service providers and their representatives; to provide for the regulation of dealings in precious metals and stones and the registration of dealers in precious metals and stones; to establish a review tribunal to review certain decisions made by the relevant authorities under this Ordinance; and to provide for incidental and related matters.

*(Amended 4 of 2018 s. 3; 15 of 2022 s. 3)*

[8 July 2011]

*(Enacting provision omitted—E.R. 2 of 2012)*

*(Format changes—E.R. 2 of 2012)*

## Part 1

### Preliminary

#### 1. Short title

(1) This Ordinance may be cited as the Anti-Money Laundering

and Counter-Terrorist Financing Ordinance. (*Amended 4 of 2018 s. 4*)

(2)-(4) (*Omitted as spent—E.R. 2 of 2012*)

(*Amended E.R. 2 of 2012*)

## 2. Interpretation

- (1) Schedule 1 contains interpretation provisions that apply to this Ordinance in accordance with their terms.
- (2) The Secretary for Financial Services and the Treasury may, by notice published in the Gazette, amend Part 2 of Schedule 1.

## 3. Application to Government

This Ordinance applies to the Government, except as otherwise expressly provided.

## 4. Immunity

- (1) A relevant authority or any other person does not incur any civil liability for anything done or omitted to be done by the relevant authority or the person in good faith in the performance or purported performance of a function conferred or imposed on the relevant authority by or under this Ordinance.
- (1A) A regulatory body does not incur any civil liability for anything done or omitted to be done by the regulatory body in good faith in the performance or purported performance of a function conferred or imposed on the regulatory body by or under this Ordinance. (*Added 4 of 2018 s. 5*)
- (2) The protection conferred by subsection (1) does not affect any liability of the Government for the thing done or omitted to

be done by a public officer in the performance or purported performance of the relevant function.

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## Part 2

# Requirements Relating to Customer Due Diligence and Record-keeping

### 5. Schedule 2 has effect with respect to financial institutions

- (1) Subject to subsections (2), (3) and (4), Schedule 2 has effect with respect to financial institutions.
- (2) Schedule 2 has effect with respect to an authorized insurer only in relation to long term business carried on by the insurer.
- (3) Schedule 2 has effect with respect to a licensed individual insurance agent, licensed insurance agency or licensed insurance broker company only in relation to any transaction carried out by that agent, agency or company involving a contract of insurance described in column 3 of Part 2 of Schedule 1 to the Insurance Ordinance (Cap. 41). *(Replaced 12 of 2015 s. 154)*
- (4) Schedule 2 applies in relation to the issue of a stored value facility within the meaning of the Payment Systems and Stored Value Facilities Ordinance (Cap. 584) by an SVF licensee or a bank only if— *(Amended 18 of 2015 s. 68)*
  - (a) the maximum value that can be stored on the facility exceeds \$3,000; and
  - (b) the facility is in form of a physical device provided by the issuer to the user and the value is stored on the device. *(Amended 18 of 2015 s. 68)*
- (5) If a financial institution knowingly contravenes a specified provision, the financial institution 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.
- (6) If a financial institution, with intent to defraud any relevant authority, contravenes a specified provision, the financial institution commits an offence and is liable—
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 7 years; or
  - (b) on summary conviction to a fine of \$500,000 and to imprisonment for 1 year.
- (7) If a person who is an employee of a financial institution or is employed to work for a financial institution or is concerned in the management of a financial institution knowingly causes or knowingly permits the financial institution to contravene a specified provision, the person 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.
- (8) If a person who is an employee of a financial institution or is employed to work for a financial institution or is concerned in the management of a financial institution, with intent to defraud the financial institution or any relevant authority, causes or permits the financial institution to contravene a specified provision, the person commits an offence and is liable—
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 7 years; or

- (b) on summary conviction to a fine of \$500,000 and to imprisonment for 1 year.
- (9) In any proceedings for an offence under subsection (7) against a person who is an employee of a financial institution or is employed to work for a financial institution, it is a defence for the person to prove that he or she acted in accordance with the policies and procedures established and maintained by the financial institution for the purpose of ensuring compliance with the relevant specified provision.
- (10) A fine imposed on a partnership on its conviction of an offence under this section is to be paid out of the funds of the partnership.
- (11) In this section—

***long term business*** (長期業務) has the meaning given by section 2(1) of the Insurance Ordinance (Cap. 41); (*Amended 12 of 2015 s. 154*)

***specified provision*** (指明的條文) means section 3(1), (1A), (1B), (3) or (4), 5(1) or (3), 6(1) or (2), 7(2), 9, 10(1) or (2), 11(1) or (2), 12(3), (5), (6), (8), (9) or (10), 13(2), 13A(2), (4), (5), (6) or (7), 14(1) or (2), 15, 16, 17(1), 18(4), 19(1), (2), (2A) or (3), 20(1), (2), (3), (3A) or (5), 21, 22(1) or (2) or 23 of Schedule 2. (*Amended 4 of 2018 s. 6; 15 of 2022 s. 6*)

## 5A. Schedule 2 has effect in relation to DNFBPs

- (1) Schedule 2 has effect in relation to a DNFBP in accordance with this section.
- (2) An AML/CTF requirement applies to a DNFBP of a particular type if the relevant provision by or under which the requirement is made—
  - (a) states that the provision applies to a DNFBP (without limiting the type of DNFBP) or to the particular type of DNFBP;

- (b) requires a DNFBP (without limiting the type of DNFBP) or the particular type of DNFBP to comply with the provision; or
  - (c) otherwise applies the requirement or the provision to a DNFBP (without limiting the type of DNFBP) or to the particular type of DNFBP.
- (3) An AML/CTF requirement that applies to a DNFBP who is an accounting professional or a legal professional only applies, when, by way of business, the accounting professional or the legal professional, in Hong Kong, prepares for or carries out for a client a transaction concerning one or more of the following—
- (a) the buying or selling of real estate;
  - (b) the managing of client money, securities or other assets;
  - (c) the management of bank, savings or securities accounts;
  - (d) the organization of contributions for the creation, operation or management of corporations;
  - (e) the creation, operation or management of—
    - (i) legal persons; or
    - (ii) legal arrangements;
  - (f) the buying or selling of business entities;
  - (g) a service specified in the definition of ***trust or company service*** in section 1 of Part 1 of Schedule 1.
- (4) An AML/CTF requirement that applies to a DNFBP who is an estate agent only applies when the estate agent is involved, in Hong Kong, in a transaction concerning the buying or selling of real estate for a client (as defined by section 2(1) of the Estate Agents Ordinance (Cap. 511)).
- (5) An AML/CTF requirement that applies to a DNFBP who is a TCSP licensee only applies, when, by way of business, the

TCSP licensee, in Hong Kong, prepares for or carries out for a client a transaction concerning a service specified in the definition of ***trust or company service*** in section 1 of Part 1 of Schedule 1.

- (5A) An AML/CTF requirement that applies to a DNFBP who is a Category B PMS registrant only applies when, by way of business, the registrant carries out, in Hong Kong with a customer, a specified cash transaction that is not an excluded transaction. *(Added 15 of 2022 s. 7)*
- (5B) In relation to a Category B registrant, an excluded transaction means a specified cash transaction where—
- (a) the payment or payments in cash involved in the transaction is or are exclusively made by the Category B registrant to another Category B registrant; and
  - (b) the 2 Category B registrants are the only parties to the transaction. *(Added 15 of 2022 s. 7)*
- (6) To avoid doubt, for the purposes of this section, it is immaterial whether the subject matter of a transaction referred to in subsection (3), (4) or (5) is in Hong Kong or elsewhere.
- (7) In this section—

***AML/CTF requirement*** (反洗錢及恐怖分子集資規定) means a requirement set out in Part 2, 3 or 4 of Schedule 2.

*(Added 4 of 2018 s. 7)*

## 6. Amendment of Schedule 2

The Secretary for Financial Services and the Treasury may, by notice published in the Gazette, amend Schedule 2.

## 7. Guidelines for operation of Schedule 2

*(Replaced 4 of 2018 s. 8)*

- (1) A relevant authority or a regulatory body may publish in the Gazette any guideline that it considers appropriate for providing guidance in relation to the operation of any provision of Schedule 2.
- (2) A guideline published by the Monetary Authority, Securities and Futures Commission, Insurance Authority or a regulatory body may incorporate or refer to a guideline or document, or any part of a guideline or document, from time to time issued or published by the Monetary Authority, Securities and Futures Commission, Insurance Authority or the regulatory body under the relevant Ordinance.
- (3) A relevant authority or a regulatory body may from time to time amend the whole or any part of any guideline published under this section in a manner consistent with the power to publish the guideline under this section, and— *(Amended 4 of 2018 s. 8)*
  - (a) the other provisions of this section apply, with necessary modifications, to the amendments to the guideline as they apply to the guideline; and
  - (b) any reference in this or any other Ordinance to the guideline (however expressed) is, unless the context otherwise requires, to be construed as a reference to the guideline as so amended.
- (4) A failure by any person to comply with a provision in any guideline published under this section does not by itself render the person liable to any judicial or other proceedings but, in any proceedings under this Ordinance before any court, the guideline is admissible in evidence; and if any provision set out in the guideline appears to the court to be relevant to any question arising in the proceedings, the provision must be taken into account in determining that question.

- (5) In considering whether a person has contravened a provision of Schedule 2, a relevant authority or a regulatory body must have regard to any provision in the guideline published under this section that is relevant to the requirement.
- (5A) To avoid doubt, in relation to a legal professional, the power to publish guidelines under this section does not affect the sole discretion of the Law Society to determine the content of Practice Direction P as defined by section 9A(3) of the relevant Ordinance in relation to the Law Society. *(Added 4 of 2018 s. 8)*
- (6) A guideline published under this section is not subsidiary legislation.
- (7) In this section—

***relevant Ordinance*** (有關條例)—

- (a) in relation to the Insurance Authority, means the Insurance Ordinance (Cap. 41); *(Amended 12 of 2015 s. 155)*
- (b) in relation to the Monetary Authority, means the Banking Ordinance (Cap. 155);
- (c) in relation to the Securities and Futures Commission, means the Securities and Futures Ordinance (Cap. 571);
- (d) in relation to the HKICPA, means the Professional Accountants Ordinance (Cap. 50); *(Added 4 of 2018 s. 8)*
- (e) in relation to the Law Society, means the Legal Practitioners Ordinance (Cap. 159); and *(Added 4 of 2018 s. 8)*
- (f) in relation to the Estate Agents Authority, means the Estate Agents Ordinance (Cap. 511). *(Added 4 of 2018 s. 8)*

*(Amended 4 of 2018 s. 8)*

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## Part 3

# Supervision and Investigations

## Division 1—Preliminary

(Added 15 of 2022 s. 8)

### 8. Interpretation of Part 3

In this Part—

**associated entity** (有聯繫實體) has the meaning given by section 53ZR; (Added 15 of 2022 s. 9)

**authorized person** (獲授權人), except in section 17, means a person authorized under section 9(12);

**investigator** (調查員) means a person directed or appointed to investigate any matter under section 11; (Amended 15 of 2022 s. 9)

**non-Part 5B prescribed person** (非第5B部訂明人士) means a person who is any of the following (whether or not the person is also a licensed VAS provider or an associated entity of a licensed VAS provider)—

- (a) an authorized institution;
- (b) a licensed corporation;
- (c) an authorized insurer;
- (d) a licensed individual insurance agent;
- (e) a licensed insurance agency;
- (f) a licensed insurance broker company;
- (g) a licensed money service operator;
- (h) the Postmaster General;

- (i) an SVF licensee;
- (j) a TCSP licensee;
- (k) a PMS registrant; (*Added 15 of 2022 s. 9*)
- (l) a stablecoin licensee; (*Added 17 of 2025 s. 176*)

**prescribed person** (訂明人士) means—

- (a) a non-Part 5B prescribed person;
- (b) a licensed VAS provider; or
- (c) an associated entity of a licensed VAS provider; (*Added 15 of 2022 s. 9*)

**prescribed requirement** (訂明規定) means—

- (a) in relation to a non-Part 5B prescribed person, the requirement not to contravene—
  - (i) any provision of this Ordinance;
  - (ii) any notice or requirement given or imposed under this Ordinance;
  - (iii) any of the conditions of any licence under this Ordinance;
  - (iv) any of the conditions of any registration under this Ordinance; or
  - (v) any other condition imposed under this Ordinance; or
- (b) in relation to a licensed VAS provider or an associated entity of a licensed VAS provider, the requirement not to contravene—
  - (i) any provision of this Ordinance;
  - (ii) any provision in a code or guideline published under any provision of this Ordinance;

- (iii) any notice, prohibition or requirement given or imposed under or pursuant to any provision of this Ordinance;
- (iv) any conditions of any licence imposed by the Securities and Futures Commission under or pursuant to any provision in Part 5B; or
- (v) any other condition imposed by the Securities and Futures Commission under or pursuant to any provision of this Ordinance; *(Added 15 of 2022 s. 9)*

***related corporation*** (有連繫法團)—see section 53ZRC. *(Added 15 of 2022 s. 9)*

## Division 2—Powers to Enter, Inspect and Investigate

*(Added 15 of 2022 s. 10)*

### 9. Power to enter business premises etc. for routine inspection

- (1) For the purpose of ascertaining whether a prescribed person (***inspection subject***) is complying or has complied with, or is likely to be able to comply with, a prescribed requirement, an authorized person has the powers specified in subsection (1A) or (1B). *(Replaced 15 of 2022 s. 11)*
- (1A) In relation to an inspection subject who is a non-Part 5B prescribed person (***non-Part 5B inspection subject***), an authorized person may at any reasonable time—
  - (a) enter the business premises of the inspection subject;
  - (b) inspect, and make copies or otherwise record details of, any specified business record; and
  - (c) make inquiries—
    - (i) of the inspection subject; or
    - (ii) subject to subsection (6), of any information holder

concerning any specified business record, or concerning any specified transaction. (*Added 15 of 2022 s. 11*)

- (1B) In relation to an inspection subject who is a licensed VAS provider or an associated entity of a licensed VAS provider, an authorized person may at any reasonable time—
- (a) enter the business premises of the licensed VAS provider or an associated entity of the licensed VAS provider;
  - (b) inspect, and make copies or otherwise record details of, any specified business record; and
  - (c) make inquiries—
    - (i) of—
      - (A) the licensed VAS provider;
      - (B) an associated entity of the licensed VAS provider;
      - (C) a related corporation of the licensed VAS provider; or
      - (D) a related corporation of an associated entity of the licensed VAS provider; or
    - (ii) subject to subsection (6), of any information holder,
- concerning any specified business record, or concerning any specified transaction or activity. (*Added 15 of 2022 s. 11*)
- (2) (*Repealed 15 of 2022 s. 11*)
- (3) Subject to section 9A, an authorized person in exercising any power under subsection (1A)(b) or (1B)(b) may—
- (a) require any of the following persons to do any of the acts specified in subsection (4)—

- (i) if the power is exercised in respect of a non-Part 5B inspection subject—the inspection subject;
  - (ii) if the power is exercised in respect of an inspection subject who is a licensed VAS provider or an associated entity of a licensed VAS provider—
    - (A) the licensed VAS provider;
    - (B) an associated entity of the licensed VAS provider;
    - (C) a related corporation of the licensed VAS provider; or
    - (D) a related corporation of an associated entity of the licensed VAS provider; and
- (b) subject to subsection (7), require any information holder to do any of the acts specified in subsection (4). *(Replaced 15 of 2022 s. 11)*
- (4) The specified acts are—
- (a) to give the authorized person access to any specified business record, and produce the record within the time and at the place specified by the authorized person; and
  - (b) to answer any question regarding the record. *(Replaced 15 of 2022 s. 11)*
- (5) Subject to section 9A, an authorized person in exercising any power under subsection (1A)(c) or (1B)(c) in respect of a person specified in that subsection may require the person—
- (a) to give the authorized person access to any specified business record, and produce the record within the time and at the place specified by the authorized person; and
  - (b) to answer any question raised for the purposes of that subsection. *(Replaced 15 of 2022 s. 11)*

- (6) An authorized person may only exercise the power under subsection (1A)(c)(ii) or (1B)(c)(ii) if the authorized person has reasonable cause to believe that the information sought cannot be obtained by the exercise of the power under subsection (1A)(c)(i) or (1B)(c)(i). *(Amended 15 of 2022 s. 11)*
- (7) An authorized person may only exercise the power under subsection (3)(b) if the authorized person has reasonable cause to believe that the specified business record or the information sought cannot be obtained by the exercise of the power under subsection (3)(a). *(Amended 15 of 2022 s. 11)*
- (8) *(Repealed 15 of 2022 s. 11)*
- (9) If a person gives an answer in accordance with a requirement imposed under subsection (3) or (5), the authorized person may in writing require the person to verify, within the time specified in the requirement, the answer by statutory declaration.
- (10) If a person does not give an answer in accordance with a requirement imposed under subsection (3) or (5) for the reason that the information concerned is not within the person's knowledge, the authorized person may in writing require the person to verify, within the time specified in the requirement, that fact and reason by statutory declaration.
- (11) A statutory declaration under subsection (9) or (10) may be taken by the authorized person.
- (12) A relevant authority may authorize in writing any person, or any person belonging to a class of persons, as an authorized person for the purposes of this section.
- (13) A relevant authority must provide an authorized person authorized by it with a copy of its authorization.

(14) When exercising a power under this section, an authorized person must as soon as reasonably practicable produce a copy of the relevant authority's authorization for inspection.

(15) In this section—

***business premises*** (業務處所)—

(a) in relation to an authorized institution, means any premises used by the institution in connection with its business, including—

(i) the institution's principal place of business in Hong Kong;

(ii) a local branch or local office established or maintained by the institution;

(iii) a place of business of the institution used solely for the purposes of—

(A) the administration of the affairs or business of the institution;

(B) the processing of transactions; or

(C) the storage of documents, data or records; and

(iv) a place of business of the institution, or a place of business of the institution belonging to a class of places of business, declared in a notice under section 2(14)(ca) of the Banking Ordinance (Cap. 155) not to be a place of business, or a class of places of business, for the purposes of the definition of ***local office*** in section 2(1) of that Ordinance;

(b) in relation to a licensed corporation, means its premises as approved by the Securities and Futures Commission under section 130(1) of the Securities and Futures Ordinance (Cap. 571);

(c) in relation to an authorized insurer, means any premises used by the insurer in connection with its business; *(Replaced 12 of 2015 s. 156)*

(d) in relation to a licensed individual insurance agent, means any premises at which the person by whom the agent is appointed as an agent carries on business; *(Replaced 12 of 2015 s. 156)*

(e) in relation to a licensed insurance agency, means any premises at which—

(i) the agency carries on business; or

(ii) the person by whom the agency is appointed as an agent carries on business; *(Replaced 12 of 2015 s. 156)*

(ea) in relation to a licensed insurance broker company, means any premises at which the company carries on business; *(Added 12 of 2015 s. 156)*

(f) in relation to a licensed money service operator, means any premises at which the licensed money service operator may operate a money service as shown in the register maintained under section 27; *(Amended 18 of 2015 s. 69)*

(g) in relation to the Postmaster General, means—

(i) any premises at which the Postmaster General operates a remittance service; and

(ii) any premises at which the remittance service operated by the Postmaster General is managed; *(Amended 18 of 2015 s. 69; 4 of 2018 s. 9)*

(h) in relation to an SVF licensee, means any premises of the licensee that is used by the licensee in connection with its business; *(Added 18 of 2015 s. 69. Amended 4 of 2018 s. 9; 15 of 2022 s. 11)*

- (i) in relation to a TCSP licensee, means any premises at which the TCSP licensee carries on business, including a place of business used for the purpose of—
  - (i) the administration of the affairs or business of the TCSP licensee;
  - (ii) the processing of transactions; or
  - (iii) the storage of documents, data or records; (*Added 4 of 2018 s. 9*)
- (j) in relation to a licensed VAS provider, means its premises as approved by the Securities and Futures Commission under section 53ZRR; (*Added 15 of 2022 s. 11*)
- (k) in relation to an associated entity of a licensed VAS provider, means any premises of the associated entity; and (*Added 15 of 2022 s. 11*)
- (l) in relation to a PMS registrant, means, subject to section 53ZVP, any premises at which the registrant carries on a precious metals and stones business, including any premises used by the registrant for the purpose of—
  - (i) the carrying out of face-to-face transactions with customers;
  - (ii) the administration of the affairs or business of the registrant;
  - (iii) the processing of transactions; or
  - (iv) the storage of documents, data or records; (*Added 15 of 2022 s. 11*)

***information holder*** (資料持有人) means—

- (a) in relation to an authorized person exercising a power in respect of a non-Part 5B inspection subject—a person (other than the inspection subject) whom the authorized

person has reasonable cause to believe to have information relating to any specified business record or any specified transaction, or to be in possession of any specified business record, in relation to the inspection subject (whether or not the person is connected with the inspection subject); and

- (b) in relation to an authorized person exercising a power in respect of an inspection subject who is a licensed VAS provider or an associated entity of a licensed VAS provider—a person
  - (i) who is none of the following (but may or may not be connected with any of the following)—
    - (A) the licensed VAS provider;
    - (B) an associated entity of the licensed VAS provider;
    - (C) a related corporation of the licensed VAS provider;
    - (D) a related corporation of an associated entity of the licensed VAS provider; and
  - (ii) whom the authorized person has reasonable cause to believe to have information relating to any specified business record or any specified transaction or activity, or to be in possession of any specified business record, in relation to the inspection subject; *(Added 15 of 2022 s. 11)*

***local branch*** (本地分行), in relation to an authorized institution, has the meaning given by section 2(1) of the Banking Ordinance (Cap. 155);

***local office*** (本地辦事處), in relation to an authorized institution, has the meaning given by section 2(1) of the Banking Ordinance (Cap. 155).

(16) In this section, in relation to a non-Part 5B inspection subject—

- (a) ***specified business record*** (指明業務紀錄) means any record or document relating to the business carried on, or any transaction carried out, by the inspection subject; and
- (b) ***specified transaction*** (指明交易) means a transaction referred to in paragraph (a), whether or not there is any record or document relating to the transaction. *(Added 15 of 2022 s. 11)*

(17) In this section, in relation to an inspection subject that is a licensed VAS provider or an associated entity of a licensed VAS provider—

- (a) ***specified business record*** (指明業務紀錄) means any record or document relating to—
  - (i) the business carried on by the licensed VAS provider or any associated entity of the licensed VAS provider;
  - (ii) any transaction or activity that was carried out in the course of any such a business or that may affect any such a business; or
  - (iii) any transaction carried out by—
    - (A) a related corporation of the licensed VAS provider; or
    - (B) a related corporation of an associated entity of the licensed VAS provider; and
- (b) ***specified transaction or activity*** (指明交易或活動) means any transaction or activity referred to in paragraph (a)(ii) or (iii), whether or not there is any record or document relating to the transaction or activity. *(Added 15 of 2022 s. 11)*

**9A. When power under section 9 invoked by other regulatory authority**

- (1) This section applies if—
  - (a) a person (*subject person*) is required by an authorized person under section 9 to disclose information or produce a specified business record;
  - (b) the subject person is a prescribed person; and
  - (c) the person by whom the authorized person is authorized under section 9(12) (*other regulatory authority*) is not the relevant authority in relation to the subject person.
- (2) Section 9 is not to be construed as requiring the subject person to disclose any information or produce any specified business record relating to the affairs of any of its customers to the authorized person, unless the other regulatory authority is of the opinion, and certifies in writing that it is of the opinion, that the disclosure or production is necessary for the purposes of that section.
- (3) In this section—

***specified business record*** (指明業務紀錄) has the same meaning as in section 9(16)(a) and (17)(a).

*(Added 15 of 2022 s. 12)*

**10. Offences for non-compliance with requirements imposed under section 9**

- (1) A person commits an offence if the person, without reasonable excuse, fails to comply with a requirement imposed on the person under section 9(3), (5), (9) or (10).
- (2) A person who commits an offence under subsection (1) is liable—

- (a) on conviction on indictment to a fine of \$200,000 and to imprisonment for 1 year; or
  - (b) on summary conviction to a fine at level 5 and to imprisonment for 6 months.
- (3) A person commits an offence if the person—
- (a) in purported compliance with a requirement imposed on the person under section 9(3) or (5), produces any record or document or gives any answer that is false or misleading in a material particular; and
  - (b) knows that, or is reckless as to whether, the record or document or the answer is false or misleading in a material particular.
- (4) A person who commits an offence under subsection (3) 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.
- (5) A person commits an offence if the person, with intent to defraud, fails to comply with a requirement imposed on the person under section 9(3), (5), (9) or (10).
- (6) A person commits an offence if the person, with intent to defraud, produces any record or document or gives any answer that is false or misleading in a material particular in purported compliance with a requirement imposed on the person under section 9(3) or (5).
- (7) A person commits an offence if—
- (a) the person is a related person of a person (***obligated person***) on whom a requirement is imposed under section 9(3), (5), (9) or (10); and

- (b) the person, with intent to defraud, causes or allows the obligated person to fail to comply with the requirement.  
*(Replaced 15 of 2022 s. 13)*
- (8) A person commits an offence if—
- (a) the person is a related person of a person (**obligated person**) on whom a requirement is imposed under section 9(3) or (5); and
- (b) the person, with intent to defraud, causes or allows the obligated person, in purported compliance with the requirement—
- (i) to produce any record or document that is false or misleading in a material particular; or
- (ii) to give any answer that is false or misleading in a material particular.  
*(Replaced 15 of 2022 s. 13)*
- (9) A person who commits an offence under subsection (5), (6), (7) or (8) is liable—
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 7 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (10) Despite anything in this Ordinance, no criminal proceedings may be instituted against a person under subsection (1), (3), (5), (6), (7) or (8) in respect of any conduct if—
- (a) proceedings have previously been instituted against the person for the purposes of section 14(2)(b) in respect of the same conduct; and
- (b) those proceedings remain pending or because of the previous institution of those proceedings, no proceedings may again be lawfully instituted against the person for the purposes of that section in respect of the same conduct.

(11) In this section—

***related person*** (相關人士), in relation to a person (***first-mentioned person***), means a person who—

- (a) is an employee of the first-mentioned person;
- (b) is employed to work for the first-mentioned person; or
- (c) is concerned in the management of the first-mentioned person. *(Added 15 of 2022 s. 13)*

## 11. Relevant authorities may appoint investigators

(1) If a relevant authority—

- (a) has reasonable cause to believe that an offence under this Ordinance may have been committed;
- (b) in relation to a financial institution (other than a licensed VAS provider), for the purpose of considering whether to exercise any power under section 21 or 43, has reason to inquire whether the financial institution has contravened a specified provision as defined by section 5(11) or a provision specified in section 43(1);
- (c) in relation to a TCSP licensee, for the purpose of considering whether to exercise a power under section 53Z or 53ZD, has reason to inquire whether there has been a contravention referred to in section 53Z(2)(a) or (b); *(Added 4 of 2018 s. 11)*
- (d) in relation to a VASP regulated person, for the purpose of considering whether to exercise a power under section 53ZSP(3), has reason to inquire—
  - (i) whether the person is, or was at any time, guilty of misconduct for the purposes of section 53ZSP; or
  - (ii) whether the person is not or was not a fit and proper person for the purposes of section 53ZSP; or *(Added 15 of 2022 s. 14)*

- (e) in relation to a PMS registrant, for the purpose of considering whether to exercise any power under section 53ZVE(3), 53ZVF(3) or 53ZVJ(2), has reason to inquire whether there has been a contravention referred to in section 53ZVE(2)(a) or (b) or 53ZVF(2)(a) or (b),  
*(Added 15 of 2022 s. 14)*

the relevant authority may in writing direct one or more of the persons specified in subsection (2) or, with the consent of the Financial Secretary, appoint one or more other persons, to investigate the matter. *(Amended 4 of 2018 s. 11; 15 of 2022 s. 14)*

- (2) The specified persons are—

- (a) in relation to the Monetary Authority, persons appointed by the Financial Secretary under section 5A(3) of the Exchange Fund Ordinance (Cap. 66);
- (b) in relation to the Securities and Futures Commission, its employees;
- (c) in relation to the Insurance Authority, its employees;  
*(Replaced 12 of 2015 s. 157. Amended 4 of 2018 s. 11)*
- (d) in relation to the Commissioner, public officers employed in the Customs and Excise Department; and  
*(Amended 4 of 2018 s. 11)*
- (e) in relation to the Registrar, a public officer employed in the Companies Registry. *(Added 4 of 2018 s. 11)*

- (3) The costs and expenses incurred by an investigator who—

- (a) is appointed under subsection (1) with the consent of the Financial Secretary; and
  - (b) is not a person specified in subsection (2),
- may be paid out of moneys provided by the Legislative Council.

- (4) A relevant authority must provide an investigator with a copy of its direction or appointment.
- (5) Before first imposing any requirement on a person under section 12(2), (3), (4) or (5), an investigator must produce a copy of the relevant authority's direction or appointment to that person for inspection.
- (6) In this section—

**VASP regulated person** (虛擬資產服務提供者受規管人士) means a person who is or was a regulated person as defined by section 53ZSO(1). *(Added 15 of 2022 s. 14)*

## 12. Powers of investigators to require production of records or documents etc.

- (1) This section applies to a person (**covered person**) who is—*(Amended 15 of 2022 s. 15)*
  - (a) a person in relation to whom an investigator is directed or appointed to investigate any matter under section 11;
  - (b) a person whom an investigator has reasonable cause to believe to be in possession of any record or document that contains, or is likely to contain, information relevant to an investigation under section 11; or
  - (c) a person whom an investigator has reasonable cause to believe to be otherwise in possession of information relevant to an investigation under section 11.
- (2) Subject to section 12A, an investigator may in writing require a covered person to—*(Amended 15 of 2022 s. 15)*
  - (a) produce, within the time and at the place specified in the requirement, any record or document specified in the requirement that
    - (i) is or may be relevant to the investigation; and
    - (ii) is in the person's possession;

- (b) attend before the investigator at the time and place specified in the requirement, and answer any question relating to any matter under investigation that may be raised by the investigator;
  - (c) respond to any written question relating to any matter under investigation that may be raised by the investigator; and
  - (d) give the investigator all other assistance in connection with the investigation that the person is reasonably able to give.
- (3) If a covered person produces a record or document in accordance with a requirement imposed under subsection (2)(a), the investigator may, subject to section 12A, require the person to give an explanation or further particulars in respect of the record or document. *(Amended 15 of 2022 s. 15)*
- (4) If a covered person gives any answer, response, explanation or particulars in accordance with a requirement imposed under subsection (2) or (3), the investigator may in writing require the person to verify, within the time specified in the requirement, the answer, response, explanation or particulars by statutory declaration. *(Amended 15 of 2022 s. 15)*
- (5) If a covered person does not give any answer, response, explanation or particulars in accordance with a requirement imposed under subsection (2) or (3) for the reason that the information concerned is not within the person's knowledge or in the person's possession, the investigator may in writing require the person to verify, within the time specified in the requirement, that fact and reason by statutory declaration. *(Amended 15 of 2022 s. 15)*
- (6) A statutory declaration under subsection (4) or (5) may be taken by the investigator.

- (7) *(Repealed 15 of 2022 s. 15)*
- (8) An investigator—
  - (a) may make interim reports on the investigation to the relevant authority; and
  - (b) must make interim reports on the investigation to the relevant authority as soon as reasonably practicable after being required by the relevant authority to do so.
- (9) An investigator must, as soon as reasonably practicable after he or she completes the investigation, make a final report on the investigation to the relevant authority.
- (10) A relevant authority may, with the consent of the Secretary for Justice, publish a report made under this section.

**12A. When power under section 12 invoked by other regulatory authority**

- (1) This section applies if—
  - (a) a person (*subject person*) is required by an investigator under section 12 to disclose information or produce a record or document;
  - (b) the subject person is a prescribed person; and
  - (c) the person by whom the investigator is appointed or directed under section 11(1) (*other regulatory authority*) is not the relevant authority in relation to the subject person.
- (2) Neither section 11 nor 12 is to be construed as requiring the subject person to disclose any information or produce any record or document relating to the affairs of any of its customers to the investigator unless—
  - (a) the customer is a person whom the investigator has reasonable cause to believe may be able to give information relevant to the investigation; and

- (b) the other regulatory authority is of the opinion, and certifies in writing that it is of the opinion, that the disclosure or production is necessary for the purposes of the investigation.

*(Added 15 of 2022 s. 16)*

**13. Offences for non-compliance with requirements imposed under section 12**

- (1) A person commits an offence if the person, without reasonable excuse, fails to comply with a requirement imposed on the person under section 12(2), (3), (4) or (5).
- (2) A person who commits an offence under subsection (1) is liable—
- (a) on conviction on indictment to a fine of \$200,000 and to imprisonment for 1 year; or
  - (b) on summary conviction to a fine at level 5 and to imprisonment for 6 months.
- (3) A person commits an offence if the person—
- (a) in purported compliance with a requirement imposed on the person under section 12(2) or (3), produces any record or document, or gives any answer, response, explanation or further particulars, that is or are false or misleading in a material particular; and
  - (b) knows that, or is reckless as to whether, the record or document, or the answer, response, explanation or further particulars, is or are false or misleading in a material particular.
- (4) A person who commits an offence under subsection (3) 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.
- (5) A person commits an offence if the person, with intent to defraud, fails to comply with a requirement imposed on the person under section 12(2), (3), (4) or (5).
- (6) A person commits an offence if the person, with intent to defraud, produces any record or document, or gives any answer, response, explanation or further particulars, that is or are false or misleading in a material particular in purported compliance with a requirement imposed on the person under section 12(2) or (3).
- (7) A person commits an offence if—
  - (a) the person is a related person of a person (***obligated person***) on whom a requirement is imposed under section 12(2), (3), (4) or (5); and
  - (b) the person, with intent to defraud, causes or allows the obligated person to fail to comply with the requirement.  
*(Replaced 15 of 2022 s. 17)*
- (8) A person commits an offence if—
  - (a) the person is a related person of a person (***obligated person***) on whom a requirement is imposed under section 12(2) or (3); and
  - (b) the person, with intent to defraud, causes or allows the obligated person, in purported compliance with the requirement—
    - (i) to produce any record or document that is false or misleading in a material particular; or
    - (ii) to give any answer, response, explanation or further particulars, that is or are false or misleading in a material particular.  
*(Replaced 15 of 2022 s. 17)*

- (9) A person who commits an offence under subsection (5), (6), (7) or (8) is liable—
  - (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 7 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (10) Despite anything in this Ordinance, no criminal proceedings may be instituted against a person under subsection (1), (3), (5), (6), (7) or (8) in respect of any conduct if—
  - (a) proceedings have previously been instituted against the person for the purposes of section 14(2)(b) in respect of the same conduct; and
  - (b) those proceedings remain pending or because of the previous institution of those proceedings, no proceedings may again be lawfully instituted against the person for the purposes of that section in respect of the same conduct.
- (11) A person is not excused from complying with a requirement imposed on the person under section 12 only on the ground that to do so might tend to incriminate the person.
- (12) If a person is convicted by a court on a prosecution instituted as a result of the findings of an investigation under section 11, the court may order the person to pay to the relevant authority the whole or a part of the costs and expenses of the investigation and the relevant authority may recover the whole or the part of the costs and expenses as a civil debt due to it.
- (13) If a relevant authority receives an amount under an order made under subsection (12) in respect of any of the costs and expenses of an investigation, and all or any of the costs and expenses have already been paid out of moneys provided by the Legislative Council, the relevant authority must pay to

the Financial Secretary the amount received under the order to the extent that it has already been paid out of moneys provided by the Legislative Council.

- (14) In this section—

*related person* (相關人士) has the meaning given by section 10(11). (*Added 15 of 2022 s. 17*)

## Division 3—Regulatory Assistance to Non-Hong Kong Regulator Concerning VA Activities

(*Division 3 added 15 of 2022 s. 18*)

### 13A. Interpretation of Division 3

- (1) An expression used in this Division, and defined or otherwise explained in Part 5B, has the same meaning as in that Part.
- (2) In this Division—

*regulator* (規管者), in relation to a jurisdiction outside Hong Kong, means any authority or regulatory organization in the jurisdiction;

*VA requirements* (虛擬資產規定), in relation to a jurisdiction outside Hong Kong, means legal or regulatory requirements that relate to any transaction or activity regarding any virtual assets or other similar transactions or activities that are regulated by a regulator of the jurisdiction.

### 13B. International enforcement cooperation

- (1) For the purposes of this section, an issue of whether a person has contravened or is contravening any VA requirements of a jurisdiction outside Hong Kong (*other jurisdiction*) is an applicable matter if the Commission is of the opinion that the issue is of a nature similar to a matter described in section 11(1)(a) or (d) as that which the Commission has

reasonable cause to believe or has reason to inquire (as the case requires).

- (2) The Commission may provide assistance to investigate an applicable matter, at the request of a regulator of the other jurisdiction concerned who enforces or administers the VA requirements concerned, if—
  - (a) in the opinion of the Commission, the regulator meets the regulator-related requirements under section 13D(1); and
  - (b) in the opinion of the Commission, the investors' and public interest condition described in section 13E is satisfied in relation to the request.
- (3) A person may be directed or appointed under section 11 by the Commission to investigate an applicable matter as the person may be directed or appointed under that section by the Commission to investigate a matter described in subsection (1)(a) or (d) of that section.
- (4) Sections 11(3), (4) and (5), 12, 12A and 13, Division 4 and Part 6A (***section 13B-related provisions***) apply to a person directed or appointed to investigate an applicable matter, and a requirement imposed, by virtue of this section and to the doing of anything in compliance or purported compliance with such a requirement.
- (5) For the purposes of subsection (4)—
  - (a) a reference, in any of the section 13B-related provisions, to a requirement imposed under any provision of section 12 is to be read to include a requirement imposed by virtue of this section; and
  - (b) a reference, in any of the section 13B-related provisions, to the doing of anything in compliance or purported compliance with a requirement under any provision of section 12 is to be read to include the doing of the

thing in compliance or purported compliance with a requirement imposed by virtue of this section.

- (6) Subsections (7) and (8) apply if—
  - (a) an investigator is directed or appointed to investigate an applicable matter by virtue of this section; and
  - (b) the investigator, exercising a power under section 12, requires a person—
    - (i) to give an answer or response to any question as raised by the investigator; or
    - (ii) to give an explanation or further particulars.
- (7) The investigator must ensure that the person has first been informed or reminded of the limitations imposed by subsection (8) on the purpose for which the requirement is imposed and the question and answer or response, or the explanation or further particulars, may be produced to the regulator of that other jurisdiction.
- (8) If—
  - (a) any explanation, further particulars, answer or response (*subject information*) given by the person in accordance with a requirement under subsection (6)(b) (*subject requirement*) might tend to incriminate the person; and
  - (b) before giving the subject information, the person claims the subject information might tend to incriminate the person,

without limiting section 15, the investigator must not provide evidence of the subject requirement or the subject information, to the regulator of the other jurisdiction concerned, for use in criminal proceedings against the person in that other jurisdiction.

## 13C. International supervisory cooperation

- (1) Subject to subsection (4), the Commission may, at the request of a regulator of a jurisdiction outside Hong Kong (*requesting jurisdiction*), provide assistance to the regulator to ascertain—
  - (a) whether a specified regulatee constitutes a risk to, or may affect, the financial stability of the requesting jurisdiction; or
  - (b) whether a specified regulatee is complying or has complied with, or is likely to be able to comply with, any VA requirements of the requesting jurisdiction that are enforced or administered by the regulator.
- (2) In this section—
  - (a) in relation to a regulator of a jurisdiction outside Hong Kong, a specified regulatee means a corporation that—
    - (i) is regulated by the regulator; and
    - (ii) is—
      - (A) a licensed VAS provider; or
      - (B) a related corporation of a licensed VAS provider; and
  - (b) a specified VAS provider means—
    - (i) if paragraph (a)(ii)(A) applies to a specified regulatee—the specified regulatee; or
    - (ii) if paragraph (a)(ii)(B) applies to a specified regulatee—the licensed VAS provider of whom the specified regulatee is a related corporation.
- (3) If the Commission decides to provide assistance in relation to a specified regulatee under subsection (1)—
  - (a) the Commission may authorize a person for the purposes of this section (*section 13C officer*);

- (b) the section 13C officer may require the specified VAS provider or a related corporation of the specified VAS provider to—
  - (i) provide to the section 13C officer, within the time and at the place specified by the section 13C officer, a copy of any record or document relating to—
    - (A) any VA service provided by the specified VAS provider; or
    - (B) any transaction or activity that was carried out in the course of, or that may affect, any VA service provided as mentioned in subparagraph (A); and
  - (ii) answer any question raised by the section 13C officer regarding any record, document, VA service, transaction or activity referred to in subparagraph (i).
- (4) Subsection (1) applies only if—
  - (a) in the opinion of the Commission, the regulator meets the regulator-related requirements under section 13D(1);
  - (b) in the opinion of the Commission, the investors' and public interest condition described in section 13E is satisfied in relation to the request; and
  - (c) the regulator has provided to the Commission—
    - (i) a written statement that conforms with subsection (5); and
    - (ii) a written undertaking that conforms with subsection (6).
- (5) The written statement must be to the effect of confirming that the regulator has not been, and will not be, able to—

- (a) obtain the information referred to in subsection (3)(b) by any other reasonable means; and
  - (b) fully ascertain the matters described in subsection (1) without the information.
- (6) The written undertaking must be to the effect that the regulator—
- (a) will use the information, obtained from the Commission because of the request for assistance, solely for ascertaining the matters described in subsection (1);
  - (b) will not use any of the information in any proceedings, in the requesting jurisdiction or elsewhere, unless—
    - (i) the regulator has made a separate request under section 13B, and the Commission has decided to provide assistance under that section; and
    - (ii) the regulator has obtained the same information from the Commission because of the separate request;
  - (c) will treat the information as confidential and will not disclose it to any other person, in the requesting jurisdiction or elsewhere, for any purpose without the consent of the Commission;
  - (d) will on receiving a demand, legally enforceable under the laws of the requesting jurisdiction, for the disclosure of any of the information—
    - (i) inform the Commission as soon as reasonably practicable; and
    - (ii) assist in preserving the confidentiality of the information by taking all appropriate measures as may be available (including but not limited to asserting legal exemptions or privileges under the laws of the requesting jurisdiction); and

- (e) will cooperate with the Commission in any action or proceedings, in the requesting jurisdiction or elsewhere, that seek to safeguard the confidentiality of any of the information.
- (7) Section 9 (except subsections (1), (1A), (1B), (3), (4), (5), (6), (7) and (12)), sections 9A and 10, Division 4 and Part 6A (***section 13C-related provisions***) apply to a section 13C officer and a requirement imposed under subsection (3) and the doing of anything in compliance or in purported compliance with such a requirement.
- (8) For the purposes of subsection (7), a reference, in any of the section 13C-related provisions, to a requirement imposed under any provision of section 9 is to be read to include a requirement imposed under subsection (3).

## 13D. Regulator-related requirements

- (1) A regulator of a jurisdiction outside Hong Kong (***requesting jurisdiction***) requesting assistance under section 13B or 13C meets the regulator-related requirements if—
  - (a) the regulator—
    - (i) performs, in the requesting jurisdiction, any function similar to a function of the Commission under this Ordinance; or
    - (ii) regulates, supervises or investigates banking, securities, insurance, activities involving virtual assets, or other financial services in the requesting jurisdiction; and
  - (b) the regulator is subject to adequate secrecy provisions in the requesting jurisdiction.
- (2) As soon as reasonably practicable after the Commission is satisfied that a regulator meets the regulator-related requirements the Commission must cause the name of the

regulator to be published in the Gazette unless the name of the regulator has already been published under section 186(5) of the Securities and Futures Ordinance (Cap. 571).

- (3) Any matter published under subsection (2) is not subsidiary legislation.

### **13E. Investors' and public interest condition**

- (1) For the purposes of section 13B or 13C, the investors' and public interest condition is satisfied in relation to a request for assistance, made by a regulator of a jurisdiction outside Hong Kong, if the Commission is of the opinion that—
- (a) it is desirable or expedient that the assistance requested should be provided in the interest of the investing public or in the public interest; or
  - (b) the assistance will enable or assist the regulator to perform the regulator's functions and it is not contrary to the interest of the investing public or to the public interest that the assistance should be provided.
- (2) In deciding whether the investors' and public interest condition is satisfied in a particular case where assistance is requested under section 13B or 13C, the Commission must take into account whether the regulator will—
- (a) pay to the Commission any of the costs and expenses incurred in providing the assistance; and
  - (b) be able and willing to provide reciprocal assistance within its jurisdiction in response to a comparable request for assistance from Hong Kong.
- (3) If—
- (a) the Commission receives from a regulator of a jurisdiction outside Hong Kong an amount paid in

respect of any of the costs and expenses incurred in providing assistance under section 13B or 13C; and

- (b) all or any of the costs and expenses have been paid out of moneys provided by the Legislative Council,

the Commission must pay to the Financial Secretary the amount received to the extent that the costs and expenses have already been paid out of moneys provided by the Legislative Council.

## **Division 4—Miscellaneous Enforcement Matters**

*(Added 15 of 2022 s. 18)*

### **14. Application to Court of First Instance relating to non-compliance with requirements imposed under section 9 or 12**

- (1) If a person fails to comply with a requirement imposed by an authorized person under section 9(3), (5), (9) or (10) or by an investigator under section 12(2), (3), (4) or (5), the authorized person or the investigator may apply by originating summons to the Court of First Instance for an inquiry into the failure.
- (2) On an application under subsection (1), the Court of First Instance may—
- (a) on being satisfied that there is no reasonable excuse for the person not to comply with the requirement, order the person to comply with the requirement within the time specified by the Court; and
- (b) on being satisfied that the failure was without reasonable excuse, punish the person, and any other person knowingly involved in the failure, in the same manner as if the person and that other person had been guilty of contempt of court.

- (3) An originating summons under subsection (1) is to be in Form No. 10 in Appendix A to the Rules of the High Court (Cap. 4 sub. leg. A).
- (4) Despite anything in this Ordinance, no proceedings may be instituted against a person for the purposes of subsection (2)(b) in respect of any conduct if—
  - (a) criminal proceedings have previously been instituted against the person under section 10(1), (3), (5), (6), (7) or (8) or 13(1), (3), (5), (6), (7) or (8) in respect of the same conduct; and
  - (b) those criminal proceedings remain pending or because of the previous institution of those criminal proceedings, no criminal proceedings may again be lawfully instituted against the person under that section in respect of the same conduct.

## 15. Use of incriminating evidence in proceedings

- (1) If an investigator requires a person to give an answer or response to a question or to give an explanation or further particulars under section 12(2) or (3), the investigator must ensure that the person has first been informed or reminded of the limitations imposed by subsection (2) on the admissibility in evidence of the requirement and of the question and answer or response, or the explanation or further particulars.
- (2) Despite anything in this Ordinance and subject to subsection (3)—
  - (a) if an investigator requires a person to give an answer or response to a question or to give an explanation or further particulars under section 12(2) or (3); and
  - (b) the answer or response, or the explanation or further particulars, might tend to incriminate the person and the

person so claims before giving the answer or response or giving the explanation or further particulars,

the requirement and the question and answer or response, or the explanation or further particulars, are not admissible in evidence against the person in criminal proceedings in a court of law.

- (3) Subsection (2) does not apply to criminal proceedings in which the person is charged with an offence under section 13(1), (3), (5), (6), (7) or (8), or under Part V of the Crimes Ordinance (Cap. 200), in respect of the answer or response, or the explanation or further particulars. (*Amended 15 of 2022 s. 19*)

## **16. Lien claimed on records or documents**

If a person claims a lien on any record or document in the person's possession that is required to be produced under this Part—

- (a) the lien does not affect the requirement to produce the record or document;
- (b) no fees are payable for or in respect of the production; and
- (c) the production does not affect the lien.

## **17. Magistrate's warrants**

- (1) If a magistrate is satisfied by information on oath laid by an investigator, a person authorized under section 9(12), or an employee or staff member of a relevant authority that there are reasonable grounds to suspect that there is, or is likely to be, on premises specified in the information any record or document that may be required to be produced under this Part, the magistrate may issue a warrant authorizing a person specified in the warrant, a police officer, and any other person

as may be necessary to assist in the execution of the warrant, to—

- (a) enter the premises, if necessary by force, at any time within the period of 7 days beginning on the date of the warrant; and
  - (b) search for, seize and remove any record or document that the person specified in the warrant or the police officer has reasonable cause to believe may be required to be produced under this Part.
- (2) If an authorized person has reasonable cause to believe that a person found on the premises is employed in connection with a business that is or has been carried on on the premises, the authorized person may require that person to produce for examination any record or document that—
- (a) is in the possession of that person; and
  - (b) the authorized person has reasonable cause to believe may be required to be produced under this Part.
- (3) An authorized person may, in relation to any record or document required to be produced under subsection (2)—
- (a) prohibit any person found on the premises from—
    - (i) removing the record or document from the premises;
    - (ii) erasing anything from, adding anything to or otherwise altering anything in, the record or document; or
    - (iii) otherwise interfering in any manner with, or causing or permitting any other person to interfere with, the record or document; or
  - (b) take any other step that appears to the authorized person to be necessary for—

- (i) preserving the record or document; or
  - (ii) preventing interference with the record or document.
- (4) Any record or document removed under subsection (1) may be retained—
- (a) for a period not exceeding 6 months beginning on the day of its removal; or
  - (b) if the record or document is or may be required for the purpose of any criminal proceedings or any proceedings under this Ordinance, for any longer period that may be necessary for the purpose of those proceedings.
- (5) If an authorized person removes any record or document under this section, the authorized person must, as soon as reasonably practicable after the removal, give a receipt for the record or document.
- (6) An authorized person who has removed any record or document under this section may permit any person who would be entitled to inspect the record or document but for the removal to inspect it and to make copies or otherwise record details of it at all reasonable times.
- (7) An authorized person who enters any premises under this section must, if required, produce the warrant for inspection.
- (8) Section 102 of the Criminal Procedure Ordinance (Cap. 221) applies to any property that has by virtue of this section come into the possession of a relevant authority, as it applies to property that has come into the possession of the police.
- (9) A person commits an offence if the person—
- (a) without reasonable excuse, fails to comply with a requirement or prohibition imposed on the person under subsection (2) or (3); or

- (b) obstructs an authorized person exercising a power conferred by subsection (2) or (3).
- (10) A person who commits an offence under subsection (9) 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.
- (11) In this section—

***authorized person*** (獲授權人) means a person authorized by a warrant issued under subsection (1) to carry out the acts set out in paragraphs (a) and (b) of that subsection.

## 18. Production of information in information systems etc.

- (1) If any information or matter contained in a record or document is recorded otherwise than in a legible form but is capable of being reproduced in a legible form, any person who is empowered to require the production of the record or document under this Part is also empowered to require the production of a reproduction of the recording of the information or matter, or the relevant part of the recording, in a legible form.
- (2) If any information or matter contained in a record or document is recorded in an information system, any person who is empowered to require the production of the record or document under this Part is also empowered to require the production of a reproduction of the recording of the information or matter, or the relevant part of the recording, in a form that enables the information or matter to be reproduced in a legible form.
- (3) (*Repealed 15 of 2022 s. 20*)

**19. Inspection of records and documents seized etc.**

- (1) If an authorized person or an investigator has taken possession of any record or document under this Part, the authorized person or the investigator must permit any other person who would be entitled to inspect the record or document had the authorized person or the investigator not taken possession of it under this Part to inspect it and to make copies or otherwise record details of it at all reasonable times.
- (2) A person who gives a permission under subsection (1) may impose any reasonable condition as to security or otherwise that the person thinks fit.

**20. Destruction of documents etc.**

- (1) A person commits an offence if the person destroys, falsifies, conceals or otherwise disposes of, or causes or permits the destruction, falsification, concealment or disposal of, any record or document that the person is required by an authorized person or an investigator to produce under this Part, with intent to conceal, from the authorized person or the investigator, facts or matters capable of being disclosed by the record or document.

- (2) A person who commits an offence under subsection (1) 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.
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## Part 4

### Disciplinary Actions by Relevant Authorities

#### 20A. Part 4 does not apply to licensed VAS provider

In this Part—

*financial institution* (金融機構) excludes a licensed VAS provider.

(Added 15 of 2022 s. 21)

#### 21. Relevant authorities may take disciplinary actions

- (1) Subject to sections 22 and 23, if a financial institution contravenes a specified provision as defined by section 5(11), the relevant authority may exercise any one or more of the powers specified in subsection (2).
- (2) The specified powers are—
  - (a) to publicly reprimand the financial institution;
  - (b) to order the financial institution to take, by a date specified by the relevant authority, any action specified by the relevant authority for the purpose of remedying the contravention; and
  - (c) to order the financial institution to pay a pecuniary penalty not exceeding the amount that is the greater of—
    - (i) \$10,000,000; or
    - (ii) 3 times the amount of the profit gained, or costs avoided, by the financial institution as a result of the contravention.

- (3) A financial institution that is ordered to pay a pecuniary penalty under this section must pay the penalty to the relevant authority within—
- 30 days; or
  - any longer period that the relevant authority may specify by notice under section 22(2),
- after the order has taken effect as a specified decision under section 75.
- (4) If a financial institution fails to comply with an order to take remedial action made under subsection (1), the relevant authority may further order the financial institution to pay a daily pecuniary penalty not exceeding \$100,000 for each day on which the failure continues after the date specified in the order as being the date by which the remedial action must be taken.
- (5) The Court of First Instance may, on an application of a relevant authority made in the manner specified in subsection (6), register an order to pay a pecuniary penalty made under subsection (1) or (4) in the Court of First Instance and the order is, on registration, to be regarded for all purposes as an order of the Court of First Instance made within the civil jurisdiction of the Court of First Instance for the payment of money.
- (6) For the purpose of making an application under subsection (5), the relevant authority must produce to the Registrar of the High Court a notice in writing requesting that the order be registered, together with the original and a copy of the order.
- (7) A relevant authority must pay into the general revenue any pecuniary penalty received by it under an order made under this section.
- (8) If a relevant authority has exercised a power under subsection (1) in respect of a financial institution, the relevant authority