

- (5) A person who, without reasonable excuses, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

53ZUY. Approval required for becoming director of Category B registrant

- (1) A person must not become a director of a Category B registrant that is a corporation unless the Commissioner has given approval in writing.
- (2) The Commissioner may give approval only if—
- (a) the Category B registrant makes an application for the approval; and
 - (b) the Commissioner is satisfied that the person is a fit and proper person to be associated with a precious metals and stones business.
- (3) Section 53ZUN applies to a determination under subsection (2)(b).
- (4) Section 53ZUZ apply to an application under subsection (2)(a) and to the determination of the application.
- (5) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

53ZUZ. Provisions supplementary to sections 53ZUW, 53ZUX and 53ZUY

- (1) An application for an approval of the Commissioner under section 53ZUW, 53ZUX or 53ZUY—
- (a) must be made in the form and way specified by the Commissioner; and
 - (b) must be accompanied by the fee specified in Schedule 3K.

- (2) If the Commissioner decides not to give the approval applied for by a Category B registrant under section 53ZUW, 53ZUX or 53ZUY, the Commissioner must inform the registrant of the decision by written notice and the notice must include—
 - (a) a statement of the reasons for the decision; and
 - (b) a statement that the registrant may apply to the Review Tribunal for a review of the decision.

Division 5—Registrant’s Duty to Display Certificate and Give Notifications

53ZV. Display of certificate of registration

- (1) A registrant must display the certificate of registration in a conspicuous place at the principal place of business of the registrant.
- (2) A registrant must display, in a conspicuous place at each branch of the registrant (if any), the branch certificate concerned.
- (3) If a certificate of registration or a branch certificate is issued in the form of an electronic record, the registrant concerned is to be regarded as complying with subsection (1) or (2) (as the case requires) if the registrant display a printed copy of the certificate in the manner described in subsection (1) or (2) (as the case requires).
- (4) A registrant who carries on a precious metals and stones business, on a website through the Internet or by other electronic means, must provide on the website or other electronic means a means specified by the Commissioner for verifying the registrant’s status as such.
- (5) A registrant who, without reasonable excuse, contravenes subsection (1), (2) or (4) commits an offence and is liable on conviction to a fine at level 5.

- (6) The Commissioner may, by notice published in the Gazette, specify that a registrant of a description specified in the notice is to be regarded as having complied with subsection (1) or (2) if the registrant displays a certificate of registration or a branch certificate in the manner specified in the notice.
- (7) A notice published under subsection (6) is not subsidiary legislation.
- (8) In this section—

electronic record (電子紀錄) has the meaning given by section 2(1) of the Electronic Transactions Ordinance (Cap. 553).

53ZVA.Notification of changes of particulars

- (1) In relation to a registrant, this section applies to the following (***specified particulars***)—
 - (a) the particulars that the registrant has provided to the Commissioner in connection with an application under this Part for—
 - (i) registration as a Category A registrant or a Category B registrant; or
 - (ii) renewal of registration as a Category B registrant;
 - (b) any other particulars notified under this section.
- (2) Within 1 month of beginning on the day on which a change in any specified particulars occurs in relation to a registrant, the registrant must notify the Commissioner, in writing, of the change.
- (3) A registrant who, without reasonable excuse, contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 5.
- (4) If a change notified under subsection (2) relates to any particulars specified in a certificate of registration or a branch certificate (***earlier certificate***)—

- (a) the Commissioner may issue, for replacement, a certificate of registration or a branch certificate (as the case requires) containing the particulars as changed; and
 - (b) the earlier certificate ceases to have effect from the day on which a certificate is issued under paragraph (a) for replacing it.
- (5) The Commissioner must, as soon as reasonably practicable after receiving the notification under subsection (2), amend any specified particulars in the register if necessary.

53ZVB. Notification of intended cessation of business etc.

- (1) A person who is a Category A registrant must notify the Commissioner, in writing, if the person intends—
 - (a) to cease to carry on the person's precious metals and stones business; or
 - (b) to cease to carry out specified transactions while carrying on the person's precious metals and stones business.
- (2) A person who is a Category B registrant must notify the Commissioner, in writing, if the person intends—
 - (a) to cease to carry on the person's precious metals and stones business; or
 - (b) to cease to carry out specified transactions and specified cash transactions while carrying on the person's precious metals and stones business.
- (3) The notification must be given before the date on which the cessation is to take effect (*intended date of cessation*).
- (4) The notification must state—
 - (a) the person's intention as referred to in subsection (1)(a) or (b) or (2)(a) or (b); and

- (b) the intended date of cessation.
- (5) The Commissioner must, as soon as reasonably practicable after the intended date of cessation, as notified, remove the relevant particulars from the register.
- (6) A person who, without reasonable excuse, contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 5.
- (7) Any fee paid for the grant or renewal of the registration of a person is not refundable on the cancellation of the registration.
- (8) The certificate of registration and each branch certificate (if any) in respect of the person cease to have effect from the intended date of cessation, as notified.

53ZVC. How to give notifications

A notification under this Division must be given—

- (a) in the form specified by the Commissioner; and
- (b) in the way specified by the Commissioner.

Division 6—Disciplinary Powers

53ZVD. Interpretation of Division 6

In this Division—

disciplinary power (紀律處分權力) means a power that may be exercised by the Commissioner under section 53ZVE or 53ZVF.

53ZVE. Disciplinary action against Category A registrant

- (1) Subject to section 53ZVG, the Commissioner may, in any of the situations specified in subsection (2), exercise, in respect

of the Category A registrant, one or more of the powers specified in subsection (3).

- (2) The situations are that—
 - (a) a Category A registrant contravenes—
 - (i) a regulation made under section 53ZVS; or
 - (ii) a condition of the registration; and
 - (b) there is a contravention of section 53ZV, 53ZVA or 53ZVB.
- (3) The powers are—
 - (a) to publicly reprimand the registrant; and
 - (b) to order the registrant to take, by a date specified by the Commissioner, any action specified by the Commissioner for the purpose of remedying the contravention.
- (4) After a decision to exercise a disciplinary power takes effect as a specified decision under section 75, the Commissioner may disclose to the public—
 - (a) details of the decision;
 - (b) the reasons for which the decision was made; and
 - (c) any material facts relating to the case.
- (5) The Commissioner may exercise a disciplinary power only after giving the registrant a reasonable opportunity to be heard.

53ZVF. Disciplinary action against Category B registrant

- (1) Subject to sections 53ZVG and 53ZVH, the Commissioner may, in any of the situations specified in subsection (2), exercise, in respect of the Category B registrant, one or more of the powers specified in subsection (3).
- (2) The situations are that—

- (a) a Category B registrant contravenes—
 - (i) a requirement set out in Schedule 2 that applies to DNFBP who is a Category B registrant;
 - (ii) a regulation made under section 53ZVS; and
 - (iii) a condition of the registration; and
 - (b) there is a contravention of section 53ZUW, 53ZUX, 53ZUY, 53ZV, 53ZVA or 53ZVB.
- (3) The powers are—
- (a) to publicly reprimand the registrant;
 - (b) to order the registrant to take, by a date specified by the Commissioner (*compliance deadline*), any action specified by the Commissioner for the purpose of remedying the contravention (*remedial action*); and
 - (c) to order the registrant to pay a pecuniary penalty not exceeding \$500,000.
- (4) If a Category B registrant fails to comply with an order to take remedial action, the Commissioner may further order the registrant to pay a daily pecuniary penalty not exceeding \$10,000 for each day on which the failure continues after the compliance deadline.
- (5) A Category B registrant who is ordered to pay a pecuniary penalty under this section must pay the penalty to the Commissioner within—
- (a) 30 days; or
 - (b) a longer period specified in the notice referred to in section 53ZVG,
- after the order takes effect as a specified decision under section 75.

- (6) After a decision to exercise a disciplinary power takes effect as a specified decision under section 75, the Commissioner may disclose to the public—
 - (a) details of the decision;
 - (b) the reasons for which the decision was made; and
 - (c) any material facts relating to the case.
- (7) The Commissioner may exercise a disciplinary power only after giving the registrant a reasonable opportunity to be heard.

53ZVG. Notice regarding exercise of disciplinary powers

If the Commissioner decides to exercise a disciplinary power in respect of a registrant under section 53ZVE or 53ZVF, the Commissioner must inform the registrant of the decision by written notice and the notice must—

- (a) include a statement of the reasons for the decision;
- (b) specify any action that the registrant is required to take under the decision;
- (c) for a decision to publicly reprimand, specify the terms in which the registrant is to be reprimanded;
- (d) for a decision to impose a pecuniary penalty on a Category B registrant—
 - (i) specify the amount of the penalty; and
 - (ii) if the penalty is to be paid within a period other than that referred to in section 53ZVF(5)(a), specify that other period within which it must be paid; and
- (e) include a statement that the registrant may apply to the Review Tribunal for a review of the decision.

53ZVH. Guidelines for imposing pecuniary penalty on Category B registrant

- (1) The Commissioner must publish guidelines indicating the way in which the Commissioner proposes to exercise the disciplinary power to impose a pecuniary penalty on a Category B registrant under section 53ZVF.
- (2) The guidelines must be—
 - (a) published before the Commissioner exercises a disciplinary power to impose a pecuniary penalty for the first time; and
 - (b) published in the Gazette and in any other way that the Commissioner considers appropriate.
- (3) In exercising the disciplinary power to impose a pecuniary penalty, the Commissioner must have regard to the published guidelines.
- (4) The guidelines are not subsidiary legislation.

53ZVI. Registration of pecuniary penalty order

- (1) The Court of First Instance may, on application made by the Commissioner, register in that Court an order to pay a pecuniary penalty.
- (2) The application must be made by producing to the Registrar of the High Court a written notice, requesting that the order be registered, together with the original and a copy of the order.
- (3) On registration, the order is to be regarded for all purposes as an order of the Court of First Instance made within the civil jurisdiction of that Court for the payment of money.
- (4) In this section—

pecuniary penalty (罰款) means a pecuniary penalty ordered to be paid under section 53ZVF(3)(c) or (4).

53ZVJ. Application of disciplinary powers in respect of directors of Category B registrants

- (1) This section applies if—
 - (a) the Commissioner exercises a disciplinary power in respect of a Category B registrant that is a corporation in connection with a contravention referred to in section 53ZVF(2)(a)(i); and
 - (b) either—
 - (i) the contravention was caused or allowed by a director of the corporation; or
 - (ii) the director failed to take reasonable steps to prevent the contravention.
- (2) A disciplinary power is also exercisable by the Commissioner in respect of the director as if the director were a Category B registrant.
- (3) This Division is to be construed accordingly.

Division 7—Non-Hong Kong Precious Metals and Stones Dealers

53ZVK. Non-Hong Kong precious metals and stones dealer must file cash transaction report

- (1) A non-Hong Kong precious metals and stones dealer must give to the Commissioner a report, in respect of any specified cash transaction carried out by the dealer, in accordance with subsection (2).
- (2) The report must—

- (a) be given in the form specified by the Commissioner and in the way specified by Commissioner;
 - (b) contain the information set out in Schedule 3J; and
 - (c) be given as soon as practicable and in any event before the earlier of the following—
 - (i) the expiry of 1 day after the transaction;
 - (ii) the earliest time when a specified individual leaves Hong Kong.
- (3) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a level 5 fine and to imprisonment for 3 months.
- (4) In this section—
- specified individual* (指明個人), in relation to a specified cash transaction carried out by a non-Hong Kong precious metals and stones dealer, means each of the following—
- (a) the dealer if the dealer is an individual and is in Hong Kong at the time of the transaction;
 - (b) an individual acting on behalf of the dealer in the transaction.

Division 8—Enforcement

53ZVL. Commissioner may appoint authorized officers

The Commissioner may appoint, in writing, a public officer employed in the Customs and Excise Department to be an authorized officer for the purposes of this Part.

53ZVM. Magistrate's warrant to enter premises

- (1) A magistrate may issue a warrant authorizing an authorized officer to take the actions referred to in subsection (2) if

satisfied by information on oath that there are reasonable grounds to suspect that—

- (a) an offence under section 53ZUE or 53ZVK—
 - (i) is being committed on any premises; or
 - (ii) has been committed on any premises; and
 - (b) there is or may be on any premises anything that is or contains evidence of an offence under section 53ZUE or 53ZVK.
- (2) The actions are—
- (a) to enter and search the premises; and
 - (b) to seize, remove or detain—
 - (i) any record or document, or any cash or other article, found on the premises that—
 - (A) is, or appears to the authorized officer to be or to contain, evidence of the commission of the suspected offence; or
 - (B) appears to the authorized officer to be likely to be or to contain the evidence; and
 - (ii) anything that the authorized officer has reasonable cause to believe may be required as evidence in proceedings for the suspected offence.
- (3) An authorized officer authorized under the warrant may—
- (a) call on any person to assist the officer in entering and searching the premises;
 - (b) break into and forcibly enter the premises;
 - (c) remove by force any person or thing obstructing the officer in the exercise of those powers; and
 - (d) detain any person found on the premises who appears to the officer to be, or to be likely to be, able to give

information relevant to the investigation of the suspected offence until the premises have been searched.

- (4) An authorized officer who enters any premises under this section must, if required, produce the warrant for inspection.
- (5) A person who obstructs an authorized officer in the exercise of a power conferred under this section commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.
- (6) In this section—

authorized officer (獲授權人員) means a person appointed as an authorized officer under section 53ZVL.

53ZVN. Power to require production of material in legible form

- (1) This section applies in relation to any information or matter (**material**) contained in a record or document that—
 - (a) is found on any premises entered under a warrant; and
 - (b) is not in a legible form or is in an information system.
- (2) If the material that is not in a legible form can be reproduced in a legible form, the authorized officer may require a person referred to in subsection (4) to produce the material or the relevant part of it in a legible form.
- (3) If the material is in an information system, the authorized officer may require a person specified in subsection (4) to produce the material or the relevant part of it in a form that enables it to be reproduced in a legible form.
- (4) The following persons are specified for the purposes of subsections (2) and (3)—
 - (a) a person who appears to the authorized officer to be in charge of the premises;

- (b) a person who appears to the authorized officer to be able, or likely to be able, to produce the material—
 - (i) in a legible form; or
 - (ii) in a form that enables it to be reproduced in a legible form.
- (5) A person who obstructs an authorized officer in the exercise of a power under this section commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.
- (6) In this section—

authorized officer (獲授權人員) means an authorized officer (as defined by section 53ZVM(6)) authorized by a warrant issued under section 53ZVM.

53ZVO. Authorized officer's power to arrest and search etc.

- (1) An authorized officer may, without a warrant, arrest a person or detain a person for further enquiries if—
 - (a) the authorized officer has reasonable grounds to suspect that the person has committed, or is committing, an offence under section 53ZUE or 53ZVK; or
 - (b) the authorized officer has reasonable grounds to suspect that the person has committed or is committing an offence under this Part, other than an offence under section 53ZUE or 53ZVK, and it appears to the authorized officer that service of a summons is impracticable because—
 - (i) the name of the person is unknown to, and cannot readily be ascertained by, the authorized officer;
 - (ii) the authorized officer has reasonable grounds to suspect that a name given by the person as his or her name is not the person's true name;

- (iii) the person has failed to give a satisfactory address for service of the summons; or
 - (iv) the authorized officer has reasonable grounds to suspect that an address given by the person as an address for service of the summons is not a valid address.
- (2) An authorized officer who arrests or detains a person under this section must, if requested, produce evidence of his or her appointment as an authorized officer.
- (3) An authorized officer who arrests a person under subsection (1) must take the person to a police station to be dealt with in accordance with the Police Force Ordinance (Cap. 232).
- (4) However, if further inquiries are necessary, an authorized officer may first take the person to an office of the Customs and Excise Service for further inquiries and then to a police station to be dealt with in accordance with the Police Force Ordinance (Cap. 232).
- (5) A person, whether arrested or not, must not be detained for more than 48 hours without being charged and brought before a magistrate.
- (6) If a person forcibly resists, or attempts to evade, arrest or detention under this section, the authorized officer may use any force that is reasonably necessary to effect the arrest or detention.
- (7) if an authorized officer has arrested a person under this section, the officer may—
 - (a) search the person, or the place at which the person has been arrested and its surrounding areas, for anything that may be related to the suspected offence; and
 - (b) take possession of anything found as a result of the exercise of the power under paragraph (a) that the

authorized officer has reasonable grounds to suspect is related to the suspected offence.

(8) In this section—

authorized officer (獲授權人員) means a person appointed as an authorized officer under section 53ZVL.

Division 9—Miscellaneous

53ZVP. How this Ordinance applies to hawker

- (1) This section applies to a person who is a hawker holding a hawker licence in relation to the carrying on of a precious metals and stones business.
- (2) A requirement under this Part for an application under this Part to be accompanied by a copy of a valid business registration certificate is taken to be complied with, in respect of an application made by the person, if the application is accompanied by a copy of the hawker licence.
- (3) If the person is registered as a registrant by relying on subsection (2), a reference in this Ordinance to a registrant ceasing to hold a valid business registration certificate is taken to mean—
 - (a) the person ceasing to hold the hawker licence; or
 - (b) the person's hawker licence being suspended under section 125(1)(b) of the Public Health and Municipal Services Ordinance (Cap. 132).
- (4) If the person is registered as a registrant by relying on subsection (2), a reference in this Ordinance to premises used for the purpose of the carrying out of face-to-face transactions with customers or business premises or a place of business is taken to include—

- (a) the location of the fixed pitch from which the person may hawk, as specified in the licence; or
 - (b) the areas in which the person may hawk, as specified in the licence.
- (5) Subject to any necessary modifications, this Ordinance applies accordingly.
- (6) In this section—
hawker licence (小販牌照) means a licence issued under Part 2 of the Hawker Regulation (Cap. 132 sub. leg. AI).

53ZVQ. Amendment of Schedules 3H to 3K

- (1) The Secretary for Financial Services and the Treasury may, by notice published in the Gazette, amend Schedules 3H and 3I.
- (2) The Commissioner may, by notice published in the Gazette, amend Schedules 3J and 3K.

53ZVR. Commissioner may waive fee

The Commissioner may, in relation to any person or class of persons, waive, in whole or in part, the payment of any fee under this Part.

53ZVS. Regulations

The Commissioner of Customs and Excise may make regulations for the better carrying out of the provisions and purposes of this Part.

53ZVT. Offence of providing false or misleading information

- (1) A person commits an offence if the person in a specified document or for a specified purpose—

- (a) makes a statement that is false or misleading in a material particular; and
 - (b) knows that, or is reckless as to whether, the statement is false or misleading in a material particular.
- (2) A person commits an offence if the person in a specified document or for a specified purpose—
- (a) omits a material particular from a statement with the result that the statement is rendered false or misleading; and
 - (b) knows that, or is reckless as to whether, the material particular is omitted from the statement.
- (3) A person who commits an offence under subsection (1) or (2) is liable on conviction to a fine at level 5 and to imprisonment for 6 months.
- (4) In this section—

specified document (指明文件) means—

- (a) an application made to the Commissioner under this Part;
- (b) a notification given to the Commissioner under this Part; or
- (c) any other document provided to the Commissioner for any purpose under this Part;

specified purpose (指明目的) means a purpose in connection with an application made to the Commissioner under this Part or a notification given to the Commissioner under this Part.

53ZVU. Time limit for prosecution

Despite section 26 of the Magistrates Ordinance (Cap. 227), proceedings may be instituted for an offence, other than an

indictable offence, under this Part within 12 months after the offence is discovered by the Commissioner.

53ZW. Transitional arrangements for existing dealer

- (1) This section applies to an existing precious metals and stones dealer, that is to say a person who immediately before 1 April 2023—
 - (a) has been carrying on a precious metals and stones business; and
 - (b) for that purpose, held a valid business registration certificate.
- (2) An existing precious metals and stones dealer is deemed to be a Category B registrant with effect from 1 April 2023, and this Ordinance applies in relation to the dealer accordingly.
- (3) If a person who is a deemed registrant does not apply for registration as a Category A registrant or a Category B registrant during the transitional period, the person ceases to be a deemed registrant when the earliest of the following events occurs—
 - (a) the transitional period ends;
 - (b) if the person has notified the Commissioner that the person has the intention referred to in section 53ZVB(2)(a) or (b)—the intended date of cessation (as defined by section 53ZVB(3)), as notified, begins;
 - (c) the person ceases to hold a valid business registration certificate;
 - (d) an event referred to in section 53ZUT(c), (d) or (e) occurs in relation to the person.
- (4) If a person who is a deemed registrant applies for registration as a Category A registrant or a Category B registrant during

the transitional period, the person ceases to be a deemed registrant when the earliest of the following events occurs—

- (a) the Commissioner registers the person as a Category A registrant or a Category B registrant;
 - (b) the Commissioner’s decision not to register the person takes effect as a specified decision under section 75;
 - (c) the application to register is withdrawn;
 - (d) if the person has notified the Commissioner that the person has the intention referred to in section 53ZVB(2)(a) or (b)—the intended date of cessation (as defined by section 53ZVB(3)), as notified, begins;
 - (e) the person ceases to hold a valid business registration certificate;
 - (f) an event referred to in section 53ZUT(c), (d) or (e) occurs in relation to the person.
- (5) If the deemed registrant is an individual in relation to whom there is an ultimate owner—
- (a) the ultimate owner is deemed to have been approved under section 53ZUW while the individual remains to be a deemed registrant; and
 - (b) this Ordinance applies in relation to the ultimate owner accordingly.
- (6) If the deemed registrant is a partnership—
- (a) if there is an ultimate owner in relation to the partnership—the ultimate owner is deemed to have been approved under section 53ZUW while the partnership remains to be a deemed registrant;
 - (b) each partner of the partnership is deemed to have been approved under section 53ZUX while the partnership remains to be a deemed registrant; and

- (c) this Ordinance applies in relation to the ultimate owner and each partner accordingly.
- (7) If the deemed registrant is a corporation—
- (a) if there is an ultimate owner in relation to the corporation—the ultimate owner is deemed to have been approved under section 53ZUW while the corporation remains to be a deemed registrant;
 - (b) each director of the corporation is deemed to have been approved under section 53ZUY while the corporation remains to be a deemed registrant; and
 - (c) this Ordinance applies in relation to the ultimate owner and each director accordingly.
- (8) In this section—
- deemed registrant*** (當作註冊人) means a person who is deemed to be a Category B registrant under subsection (2);
- transitional period*** (過渡期) means the period of 9 months beginning on 1 April 2023.
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Part 6

Anti-Money Laundering and Counter-Terrorist Financing Review Tribunal

(Amended 4 of 2018 s. 19)

Division 1—Interpretation

54. Interpretation of Part 6

In this Part—

application for review (覆核申請) means an application made under section 59(1);

parties (各方), in relation to a review, means—

(a) the specified authority that made the specified decision in question; and

(b) the person who makes the application for review;

review (覆核) means a review of a specified decision by the Tribunal under section 60(1);

Secretary (局長) means the Secretary for Financial Services and the Treasury;

specified authority (指明當局)—

(a) in relation to a specified decision falling within paragraph (a) of the definition of *specified decision*, means the Monetary Authority;

(b) in relation to a specified decision falling within paragraph (b) of the definition of *specified decision*, means the Securities and Futures Commission;

(c) in relation to a specified decision falling within paragraph (c) of the definition of *specified decision*,

means the Insurance Authority; (*Amended 4 of 2018 s. 20*)

- (d) in relation to a specified decision falling within paragraph (d) of the definition of ***specified decision***, means the Commissioner; (*Amended 4 of 2018 s. 20; 15 of 2022 s. 27*)
- (e) in relation to a specified decision falling within paragraph (e) of the definition of ***specified decision***, means the Registrar; (*Added 4 of 2018 s. 20*)
- (f) in relation to a specified decision falling within paragraph (f) of the definition of ***specified decision***, means the Securities and Futures Commission; and (*Added 15 of 2022 s. 27*)
- (g) in relation to a specified decision falling within paragraph (g) of the definition of ***specified decision***, means the Commissioner; (*Added 15 of 2022 s. 27*)

specified decision (指明決定) means—

- (a) a decision of the Monetary Authority to exercise any of the powers under section 21;
- (b) a decision of the Securities and Futures Commission to exercise any of the powers under section 21;
- (c) a decision of the Insurance Authority to exercise any of the powers under section 21;
- (d) a decision of the Commissioner—
 - (i) to exercise any of the powers under section 21;
 - (ii) to impose a licence condition under section 30;
 - (iii) to refuse to grant a licence under section 30;
 - (iv) to amend or impose a licence condition under section 31;
 - (v) to refuse to renew a licence under section 31;

- (vi) to amend or impose a licence condition under section 32;
 - (vii) to revoke or suspend a licence under section 34;
 - (viii) to refuse to give approval to a person becoming a director of a licensee under section 35;
 - (ix) to refuse to give approval to a person becoming an ultimate owner of a licensee under section 36;
 - (x) to refuse to give approval to a person becoming a partner in a partnership that is a licensee under section 37;
 - (xi) to refuse to grant an application to add new premises to a licence under section 38;
 - (xii) to refuse to grant an application to operate a money service at particular premises under section 39; or
 - (xiii) to exercise any of the powers under section 43;
- (e) a decision of the Registrar—
- (i) not to grant a licence under section 53H;
 - (ii) to impose a licence condition under section 53J;
 - (iii) not to renew a licence under section 53K;
 - (iv) to amend or impose a licence condition under section 53L or 53M;
 - (v) to revoke or suspend a licence under section 53Q;
 - (vi) not to give approval for a person to become an ultimate owner of a licensee under section 53S;
 - (vii) not to give approval for a person to become a partner of a licensee under section 53T;
 - (viii) not to give approval for a person to become a director of a licensee under section 53U; or

- (ix) to exercise a power under section 53Z or 53ZD;
(Added 4 of 2018 s. 20)
- (f) a decision of the Securities and Futures Commission—
 - (i) to refuse to grant a licence under section 53ZRK;
 - (ii) to impose a condition on, or amend or remove a condition of, a licence under section 53ZRK;
 - (iii) to refuse to grant a licence under section 53ZRL;
 - (iv) to impose a condition on, or amend or remove a condition of, a licence under section 53ZRL;
 - (v) to refuse to approve an accreditation or transfer of an accreditation under section 53ZRM;
 - (vi) to impose a condition on, or amend or remove a condition of, an accreditation or transfer of an accreditation under section 53ZRM;
 - (vii) to refuse to add, remove or otherwise vary, under section 53ZRN, any VA service that is licensed to be provided under a licence;
 - (viii) to refuse to approve a person as a responsible officer of a licensed VAS provider under section 53ZRP or to refuse to approve a person to become an ultimate owner of a licensed VAS provider under section 53ZRQ;
 - (ix) to impose a condition in approving a person as a responsible officer of a licensed VAS provider under section 53ZRP or to amend or remove a condition in relation to the approval of a person as such a responsible officer under that section;
 - (x) to impose a condition in approving a person to become an ultimate owner of a licensed VAS provider under section 53ZRQ or to amend or

- remove a condition in relation to the approval of such an ultimate owner under that section;
- (xi) to refuse to approve premises under section 53ZRR;
 - (xii) to appoint an auditor under section 53ZSH to carry out examination and audit, or give a direction to pay any of the costs and expenses of the examination and audit;
 - (xiii) to exercise a power under section 53ZSP against a person who is or was regulated person (as defined by section 53ZSO(1));
 - (xiv) to revoke or suspend a licence, or the approval of a person as a responsible officer, under section 53ZSP or 53ZSQ (section 53ZSQ(2)(d) excepted); or
 - (xv) to impose a prohibition or requirement under section 53ZSZ, 53ZT or 53ZTA or to substitute or vary, or to refuse to withdraw, substitute or vary, a prohibition or requirement under section 53ZTB; or *(Added 15 of 2022 s. 27)*
- (g) a decision of the Commissioner—
- (i) not to register a person as a Category A registrant or a Category B registrant under section 53ZUF or 53ZUO;
 - (ii) to impose a condition in relation to a Category A registrant's registration or a Category B registrant's registration under section 53ZUF or 53ZUO;
 - (iii) to impose, amend or remove a condition in relation to a Category A registrant's registration or a Category B registrant's registration under section 53ZUI or 53ZUR;

- (iv) to cancel or suspend a Category A registrant's registration or a Category B registrant's registration under section 53ZUL or 53ZUU;
- (v) not to renew a person's registration as a Category B registrant under section 53ZUQ;
- (vi) to impose, amend or remove a condition in relation to a renewal of registration as a Category B registrant under section 53ZUQ;
- (vii) not to approve a person to become an ultimate owner, a partner or a director of a Category B registrant under section 53ZUW, 53ZUX or 53ZUY; or
- (viii) to exercise a power against a Category A registrant under section 53ZVE or a Category B registrant under section 53ZVF; *(Added 15 of 2022 s. 27)*

Tribunal (審裁處) means the Anti-Money Laundering and Counter-Terrorist Financing Review Tribunal established by section 55. *(Amended 4 of 2018 s. 20)*

Division 2—Anti-Money Laundering and Counter-Terrorist Financing Review Tribunal

(Amended 4 of 2018 s. 21)

55. Establishment of Tribunal

- (1) There is established a tribunal to be known as the “Anti-Money Laundering and Counter-Terrorist Financing Review Tribunal” in English and “打擊洗錢及恐怖分子資金籌集覆核審裁處” in Chinese. *(Amended 4 of 2018 s. 22)*
- (2) The Tribunal has jurisdiction to review specified decisions and to hear and determine any question or issue arising out of

or in connection with any review, in accordance with this Part and Schedule 4.

- (3) If the Secretary considers it appropriate to do so, the Secretary may establish additional tribunals for the purposes of any reviews, and the provisions of this Ordinance apply, with necessary modifications, to each of those additional tribunals as they apply to the Tribunal.

56. Composition of Tribunal

- (1) Except as otherwise provided in Schedule 4, the Tribunal consists of—
- (a) a chairperson; and
 - (b) 2 other members,
appointed by the Secretary.
- (2) The chairperson of the Tribunal must be a person who—
- (a) is eligible for appointment as a judge of the High Court under section 9 of the High Court Ordinance (Cap. 4); and
 - (b) is not a public officer or is a public officer by virtue only of being the chairperson of a board or tribunal established under an Ordinance.

57. Chairperson and other members of Tribunal may be paid fees

- (1) The chairperson and other members of the Tribunal may be paid a fee for their services in an amount that the Secretary considers appropriate.
- (2) The amounts payable under this section are a charge on the general revenue.

58. Schedule 4 has effect

- (1) Schedule 4 has effect with respect to the Tribunal.

- (2) The Secretary may, by notice published in the Gazette, amend Schedule 4.

59. Application for review of specified decisions

- (1) A person who is aggrieved by a specified decision made in relation to the person may apply to the Tribunal for a review of the decision within the period ending 21 days after the notice informing the person of the decision has been sent.
- (2) Despite subsection (1) and subject to subsection (3), on an application by a person who is aggrieved by a specified decision—
- the Tribunal may by order extend the time within which an application for review of the specified decision may be made under subsection (1); and
 - on the making of the order, the time within which the application may be made under subsection (1) is extended accordingly.
- (3) The Tribunal may only grant an extension under subsection (2)—
- after the applicant and the specified authority have been given a reasonable opportunity to be heard; and
 - if it is satisfied that there is a good cause for granting the extension.
- (4) An application for review—
- must be in writing; and
 - must state the grounds for the application.
- (5) The Tribunal must, as soon as reasonably practicable after receiving an application for review, send a copy of the application to the specified authority.

60. Determination of review by Tribunal

- (1) The Tribunal may determine a review of a specified decision by—
 - (a) confirming, varying or setting aside the decision and, if the decision is set aside, substituting for the decision any other decision that the Tribunal considers appropriate; or
 - (b) remitting the matter to the specified authority with any directions it considers appropriate.
- (2) If the Tribunal varies, or substitutes any other decision for, a specified decision under subsection (1)(a), the decision as varied or the other decision substituting for the specified decision may be any decision (whether more or less onerous than the decision varied or substituted) that the specified authority had power to make in respect of the person who makes the application for review in question, whether or not under the same provision as that under which the specified decision has been made.
- (3) In reviewing a specified decision, the Tribunal must give the parties to the review a reasonable opportunity to be heard.
- (4) For the purposes of proceedings before the Tribunal, matters of fact are to be established on a balance of probabilities.

61. Powers of Tribunal

- (1) Subject to Schedule 4, the Tribunal may, for the purposes of a review, on its own initiative or on the application of any party to the review—
 - (a) receive and consider any material by way of oral evidence, written statements or documents, whether or not the material would be admissible in a court of law;
 - (b) determine the manner in which any material mentioned in paragraph (a) is received;

- (c) by notice in writing signed by the chairperson of the Tribunal, require a person to attend before it at any sitting and to give evidence and produce any article, record or document in the person's possession or control relating to the subject matter of the review;
 - (d) administer oaths;
 - (e) examine or cause to be examined on oath or otherwise a person attending before it and require the person to answer truthfully any question that the Tribunal considers appropriate for the purpose of the review;
 - (f) order a witness to provide evidence for the purpose of the review by affidavit;
 - (g) order a person not to publish or otherwise disclose any material the Tribunal receives;
 - (h) prohibit the publication or disclosure of any material the Tribunal receives at any sitting, or any part of a sitting, that is held in private;
 - (i) stay any of the proceedings in the review on any grounds and on any terms and conditions that it considers appropriate having regard to the interests of justice; and
 - (j) determine the procedure to be followed in the review.
- (2) A person commits an offence if the person, without reasonable excuse—
- (a) fails to comply with an order, notice, prohibition or requirement of the Tribunal made, given or imposed under subsection (1);
 - (b) disrupts any sitting of the Tribunal or otherwise misbehaves during any sitting of the Tribunal;
 - (c) having been required by the Tribunal under subsection (1) to attend before the Tribunal leaves the place where

- the person's attendance is so required without the permission of the Tribunal;
- (d) hinders or deters any person from attending before the Tribunal, giving evidence or producing any article, record or document, for the purpose of a review;
 - (e) threatens, insults or causes any loss to be suffered by any person who has attended before the Tribunal, on account of that attendance; or
 - (f) threatens, insults or causes any loss to be suffered by the chairperson, or any other member, of the Tribunal at any time on account of the performance of the chairperson's or member's functions in that capacity.
- (3) A person who commits an offence under subsection (2) 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.
 - (4) A person is not excused from complying with an order, notice, prohibition or requirement of the Tribunal made, given or imposed under subsection (1) only on the ground that to do so might tend to incriminate the person.

62. Use of incriminating evidence given under compulsion

- (1) This section applies to any evidence, answer or information given or provided by a person in accordance with a requirement or order of the Tribunal imposed or made under section 61(1)(c), (e) or (f).
- (2) Despite anything in this Ordinance and subject to subsection (3), neither the evidence, answer or information given or provided by the person nor the requirement or order imposed

or made by the Tribunal is 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 61(2)(a), or under Part V of the Crimes Ordinance (Cap. 200), in respect of the evidence, answer or information. *(Amended 15 of 2022 s. 28)*

63. Contempt dealt with by Tribunal

- (1) The Tribunal has the same powers as the Court of First Instance to punish for contempt.
- (2) Without limiting the powers of the Tribunal under subsection (1), the Tribunal has the same powers as the Court of First Instance to punish for contempt, as if it were contempt of court, a person who, without reasonable excuse, engages in any conduct falling within section 61(2)(a), (b), (c), (d), (e) or (f).
- (3) The Tribunal must, in the exercise of its powers to punish for contempt under this section, adopt the same standard of proof as the Court of First Instance in the exercise of the same powers to punish for contempt.
- (4) Despite anything in this Ordinance—
- (a) no power may be exercised under this section to determine whether to punish a person for contempt in respect of any conduct if—
- (i) criminal proceedings have previously been instituted against the person under section 61(2) in respect of the same conduct; and
- (ii) 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;
and

- (b) no criminal proceedings may be instituted against a person under section 61(2) in respect of any conduct if—
 - (i) any power has previously been exercised under this section to determine whether to punish the person for contempt in respect of the same conduct; and
 - (ii) proceedings arising from the exercise of that power remain pending or because of the previous exercise of that power, no power may again be lawfully exercised under this section to determine whether to punish the person for contempt in respect of the same conduct.

64. Privileged information

This Part and Schedule 4 do not require an authorized institution, acting as the banker or financial adviser of a person who makes an application for review, to disclose information in relation to the affairs of any of its customers other than that person.

65. Costs

- (1) The Tribunal may, in relation to a review, by order award to—
 - (a) any person whose attendance, whether or not as a witness, has been necessary or required for the purposes of the review; or
 - (b) any party to the review,
- any sum that it considers appropriate in respect of the costs reasonably incurred by the person, or the party, in relation to the review and the application for review in question.

- (2) Costs awarded under subsection (1) must be paid by, and are recoverable as a civil debt from—
 - (a) if they are awarded to a person under subsection (1)(a), any party to the review that the Tribunal considers appropriate; or
 - (b) if they are awarded to a party to the review under subsection (1)(b), the other party to the review.
- (3) Order 62 of the Rules of the High Court (Cap. 4 sub. leg. A) applies to the award of costs, and to the taxation of any costs awarded, by the Tribunal under subsection (1).

66. Notification of Tribunal determinations

- (1) The Tribunal must, as soon as reasonably practicable after completing a review, deliver—
 - (a) its determination and the reasons for the determination; and
 - (b) any order made under section 65 in relation to the review and the reasons for the order.
- (2) If a sitting, or any part of a sitting, of the Tribunal relating to a review is held in private, the Tribunal may by order prohibit the publication or disclosure of—
 - (a) its determination, or the reasons for the determination, referred to in subsection (1)(a), or any part of the determination or reasons; or
 - (b) an order, or the reasons for an order, referred to in subsection (1)(b), or any part of such an order or any part of the reasons for such an order.
- (3) A person commits an offence if the person, without reasonable excuse, fails to comply with an order of the Tribunal made under subsection (2).

- (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.

67. Form and proof of orders of Tribunal

- (1) An order made by the Tribunal must be recorded in writing and be signed by the chairperson of the Tribunal.
- (2) A document purporting to be an order of the Tribunal signed by the chairperson of the Tribunal is, in the absence of evidence to the contrary, presumed to be an order of the Tribunal duly made and signed, without proof of its making, or proof of signature, or proof that the person signing the order was in fact the chairperson of the Tribunal.

68. Orders of Tribunal may be registered in Court of First Instance

- (1) After receiving a notice in writing given by the Tribunal in the manner prescribed by rules made by the Chief Justice under section 76, the Court of First Instance may register an order of the Tribunal in the Court of First Instance.
- (2) An order registered under subsection (1) is to be regarded for all purposes as an order of the Court of First Instance made within the jurisdiction of that Court.

69. Applications for stay of execution of specified decisions

- (1) Subject to subsections (2) and (3), the making of an application for review does not by itself operate as a stay of execution of the specified decision to which the application relates.

- (2) A person who makes an application for review or an application under section 59(2) may, at any time before the review or the application is determined by the Tribunal, apply to the Tribunal for a stay of execution of the specified decision to which the application relates.
- (3) The Tribunal must, as soon as reasonably practicable after receiving an application under subsection (2), conduct a hearing to determine the application.
- (4) The Tribunal may by order grant the stay subject to any condition as to costs, payment of money into the Tribunal or other matters that the Tribunal considers appropriate.

70. Applications for stay of execution of determinations of Tribunal

- (1) A party to a review may, at any time after the determination of the review by the Tribunal, apply to the Tribunal for a stay of execution of the determination.
- (2) On an application under subsection (1), the Tribunal may by order grant the stay subject to any condition as to costs, payment of money into the Tribunal or other matters that the Tribunal considers appropriate.

Division 3—Appeals to Court of Appeal

71. Appeal to Court of Appeal with leave

- (1) Subject to subsection (2), if a party to a review is dissatisfied with the determination of the review, the party may appeal to the Court of Appeal against the determination on a question of law or a question of fact or a question of mixed law and fact.
- (2) No appeal may be made under subsection (1) unless leave to appeal has been granted by the Court of Appeal.

- (3) Leave to appeal for the purpose of subsection (2) may be granted—
 - (a) in respect of a particular issue arising out of the determination; and
 - (b) subject to any condition that the Court of Appeal considers necessary in order to secure the just, expeditious and economical disposal of the appeal.
- (4) Leave to appeal for the purpose of subsection (2) may only be granted if the Court of Appeal is satisfied that—
 - (a) the appeal has a reasonable prospect of success; or
 - (b) there is some other reason in the interests of justice why the appeal should be heard.

72. Powers of the Court of Appeal

- (1) The Court of Appeal may, in relation to an appeal against a determination of the Tribunal—
 - (a) allow the appeal;
 - (b) dismiss the appeal;
 - (c) vary or set aside the determination and, if the determination is set aside, substitute for the determination any other determination that it considers appropriate; or
 - (d) remit the matter to the Tribunal or to the specified authority with any directions it considers appropriate.
- (2) If the Court of Appeal varies, or substitutes any other determination for, a determination under subsection (1)(c), the determination as varied or the other determination substituting for the determination may be any determination (whether more or less onerous than the determination varied or substituted) that the Tribunal had power to make in respect of the review in question, whether or not under the same

provision as that under which the determination has been made.

- (3) In an appeal under this section, the Court of Appeal may make any order for payment of costs as it considers appropriate.

73. No stay of execution of Tribunal's determination on appeal

- (1) Without prejudice to section 70, the lodging of an appeal under section 71 does not by itself operate as a stay of execution of the determination of the Tribunal appealed against.
- (2) If an appeal is lodged under section 71, the Court of Appeal may, on an application made to it by any party to the review, order a stay of execution of the determination of the Tribunal appealed against.
- (3) The Court of Appeal may, when making an order under subsection (2), impose any condition that the Court of Appeal considers appropriate, including conditions as to costs and payment of money into the Tribunal.

74. No other right of appeal

Subject to section 50 of the High Court Ordinance (Cap. 4) and section 71, the determination of the Tribunal is final and is not subject to appeal.

Division 4—Miscellaneous

75. Time when specified decisions take effect

- (1) Except as otherwise provided in this Ordinance, a specified decision takes effect—
- (a) where, before the expiry of the period of 21 days specified in section 59(1), the person in relation to

whom the decision is made notifies the specified authority in writing that the person will not apply for a review of the decision, at the time the person so notifies the specified authority;

- (b) where, within the period of 21 days specified in section 59(1), the person neither notifies the specified authority that the person will not apply for a review of the decision nor applies for a review of the decision, at the time the period expires; or
 - (c) where the person applies for a review of the decision within the period of 21 days specified in section 59(1)—
 - (i) if the decision is confirmed by the Tribunal, at the time the decision is so confirmed;
 - (ii) if the decision is varied, or substituted by another decision, by the Tribunal, at the time the decision is varied or substituted, subject however to the terms of the variation or substitution; or
 - (iii) if the application is withdrawn, at the time the application is withdrawn.
- (2) Despite subsection (1), the specified authority may, if it considers it appropriate in the public interest to do so in relation to a specified decision, specify in the notice in respect of the decision any time, other than that at which the decision is apart from this subsection to take effect, as the time at which the decision is to take effect, in which case the decision takes effect at the time so specified.

76. Power of Chief Justice to make rules

The Chief Justice may make rules—

- (a) providing for matters relating to the registration of an order of the Tribunal in the Court of First Instance under section 68(1); or

- (b) regulating the procedure for the hearing of appeals under section 71.
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Part 6A

Confidentiality Requirements

(Part 6A added 15 of 2022 s. 29)

76A. Interpretation of Part 6A

In this Part—

information (資料) means a matter, record or document to which section 76B applies;

specified person (指明人士) means—

- (a) a relevant authority;
- (b) a person who is or was a member, an employee, or a consultant, agent or adviser, of a relevant authority; or
- (c) a person who is or was—
 - (i) a person appointed under a provision of this Ordinance;
 - (ii) a person performing a function under, or carrying into effect, a provision of this Ordinance; or
 - (iii) a person assisting another person in the performance of a function under, or carrying into effect, a provision of this Ordinance.

76B. Confidentiality

(1) This section applies to—

- (a) a matter that comes to a specified person's knowledge in any of the following circumstances—
 - (i) by virtue of the specified person's appointment under this Ordinance;

- (ii) in the course of performing a function under, or carrying into effect, a provision of this Ordinance;
 - (iii) in the course of assisting another person in performing a function under, or carrying into effect, a provision of this Ordinance; and
- (b) a record or document that has come into a specified person's possession in any of the circumstances mentioned in paragraph (a).
- (2) A specified person—
- (a) must not communicate a matter referred to in subsection (1)(a)(i), (ii) or (iii) to a person; and
 - (b) must not allow another person to have access to a record or document referred to in subsection (1)(b).
- (3) A person who contravenes subsection (2) 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.

76C. Permitted disclosures by specified person

- (1) Despite section 76B, a specified person may—
- (a) disclose information—
 - (i) in performing a function under this Ordinance;
 - (ii) for the purpose of carrying into effect a provision of this Ordinance; or
 - (iii) for the purpose of doing anything required or authorized under this Ordinance;
 - (b) disclose information that has already been made available to the public;

- (c) disclose information with a view to the institution of, or for the purposes of, any criminal proceedings in Hong Kong;
 - (d) disclose information with a view to the commencement of, or for the purposes of, an investigation carried out in Hong Kong under the laws of Hong Kong;
 - (e) disclose information for the purpose of seeking advice from, or giving of advice by, counsel, a solicitor or other professional adviser, who is acting or proposing to act in a professional capacity in connection with any matter arising under this Ordinance;
 - (f) disclose information in connection with any judicial or other proceedings to which the specified person is a party; and
 - (g) disclose information in accordance with an order of a court, magistrate or tribunal, or in accordance with a law of Hong Kong or a requirement imposed under a law of Hong Kong.
- (2) Despite section 76B, a person who is or was a section 53ZSH person may disclose information obtained or received by the person in the course of performing the person's duties as a section 53ZSH person—
- (a) for the purposes of any judicial or other proceedings arising out of the performance of the person's duties as a section 53ZSH person; or
 - (b) in the case of an employee or agent of a section 53ZSH auditor, to the auditor.
- (3) In this section—

section 53ZSH auditor (第53ZSH條核數師) has the meaning given by section 53ZRZ;

section 53ZSH person (第53ZSH條人士) means—

- (a) a section 53ZSH auditor; or
- (b) an employee or agent of a section 53ZSH auditor.

76D. Permitted disclosures by relevant authority

- (1) Despite section 76B, a relevant authority may—
 - (a) disclose information in the form of a summary compiled from any information in the possession of the relevant authority, including information provided by a person under a provision of this Ordinance, if the summary is so compiled as to prevent particulars relating to the business or identity, or the trading particulars, of any person from being ascertained from it;
 - (b) disclose information to a liquidator appointed under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32);
 - (c) disclose information to the Review Tribunal;
 - (d) disclose information to the Securities and Futures Appeals Tribunal established by section 216 of the Securities and Futures Ordinance (Cap. 571);
 - (e) disclose information to a person who is or was an auditor appointed under this Ordinance, for the purpose of enabling or assisting the Securities and Futures Commission to perform its functions under this Ordinance;
 - (f) disclose information with the consent of the person from whom the information was obtained or received and, if the information relates to a different person, with the consent also of the person to whom the information relates;
 - (g) subject to subsection (2), disclose information to—
 - (i) the Chief Executive;

- (ii) the Financial Secretary;
 - (iii) the Secretary for Justice;
 - (iv) the Secretary for Financial Services and the Treasury;
 - (v) the Monetary Authority;
 - (vi) the Insurance Authority;
 - (vii) the Securities and Futures Commission;
 - (viii) the Commissioner;
 - (ix) the Registrar;
 - (x) the Official Receiver;
 - (xi) the Privacy Commissioner for Personal Data;
 - (xii) The Ombudsman;
 - (xiii) a public officer authorized under subsection (6);
 - (xiv) the Accounting and Financial Reporting Council continued under section 6 of the Accounting and Financial Reporting Council Ordinance (Cap. 588);
 - (xv) an inspector appointed by the Financial Secretary to investigate the affairs of a corporation;
 - (xvi) the Commissioner of the Independent Commission Against Corruption;
 - (xvii) the Law Society; or
 - (xviii) the Estate Agents Authority;
- (h) if the information is obtained by an authorized person under section 9 or an investigator under section 12, disclose information to—
- (i) the Secretary for Justice;
 - (ii) the Commissioner of Police;

- (iii) the Commissioner of the Independent Commission Against Corruption; or
 - (iv) the Review Tribunal;
- (i) subject to subsection (2), disclose information to an authority or regulatory organization outside Hong Kong that, in the opinion of the relevant authority—
 - (i) performs, in the jurisdiction of the authority or regulatory organization (*recipient jurisdiction*), any function similar to a function of a relevant authority or regulatory body under this Ordinance or regulates, supervises or investigates banking, securities, insurance, activities involving virtual assets, or other financial services or legal or accounting services in the recipient jurisdiction; and
 - (ii) is subject to adequate secrecy provisions in the recipient jurisdiction; or
 - (j) disclose information for the purpose of, or otherwise in connection with, an audit required under section 5F of the Insurance Ordinance (Cap. 41) or section 16 of the Securities and Futures Ordinance (Cap. 571).
- (2) A relevant authority may disclose information under subsection (1)(g) or (i) only if satisfied that it is desirable or expedient that the information should be disclosed, having regard to—
 - (a) the public interest and the interest of the investing public; and
 - (b) the recipient's need for the information in performing the recipient's functions.
 - (3) Despite section 76B—
 - (a) the Insurance Authority may—

- (i) disclose information with a view to the institution of, or otherwise for the purposes of, any disciplinary proceedings relating to the performance by a Cap. 41 prescribed person of his or her professional duties;
 - (ii) disclose information to a Cap. 41 prescribed person for the purpose of enabling or assisting the Insurance Authority to discharge its functions under the Insurance Ordinance (Cap. 41); or
 - (iii) disclose any information to an auditor or actuary specified below if, in the opinion of the Insurance Authority, the information is necessary for the auditor or actuary to discharge his or her duties under the Insurance Ordinance (Cap. 41)—
 - (A) an auditor or actuary of an authorized insurer or a licensed insurance broker company; or
 - (B) an auditor appointed under section 95ZF of the Insurance Ordinance (Cap. 41) for the supervised group of a designated insurance holding company; and
- (b) a Cap. 41 prescribed person may disclose any information disclosed to that person under paragraph (a)(ii) if the Insurance Authority has given its consent to the disclosure.
- (4) A relevant authority may, in disclosing information under subsection (1) or (3), impose any condition that the relevant authority considers appropriate.
- (5) Subsection (1)(f) does not require a relevant authority to disclose, in or in relation to a civil proceeding, any information that the relevant authority may disclose, or has disclosed, under that subsection.

- (6) The Financial Secretary may authorize a public officer as a person to whom information may be disclosed under subsection (1)(g)(xiii).
- (7) A person who, knowing of a condition imposed under subsection (4), contravenes the condition, or aids, abets, counsels or procures any person to contravene it, commits an offence.
- (8) A person who commits an offence under subsection (7) 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.
- (9) In this section—

Cap. 41 prescribed person (《第41章》訂明人士) means a prescribed person as defined by section 2(1) of the Insurance Ordinance (Cap. 41);

designated insurance holding company (指定保險控權公司) has the meaning given by section 95A(1) of the Insurance Ordinance (Cap. 41);

supervised group (受監管集團) has the meaning given by section 2(1) of the Insurance Ordinance (Cap. 41).

76E. Person subject to inspection, investigation or disciplinary action must not disclose information

- (1) This section applies to—
 - (a) a person on whom a requirement under section 9 or 12 has been imposed by an authorized person or investigator; or
 - (b) a person who has been given a notice under section 22, 44, 53ZA or 53ZSU.

- (2) The person specified in subsection (1)(a) must not disclose any information obtained in the course of the requirement being imposed, or in the course of a compliance or purported compliance with the requirement, to any other person unless—
 - (a) the relevant authority consents to the disclosure; or
 - (b) any of the conditions specified in subsection (4) is satisfied.
- (3) The person specified in subsection (1)(b) must not disclose any information obtained from the notice, or from any communication with the relevant authority in relation to the subject matter of the notice, unless—
 - (a) the relevant authority consents to the disclosure; or
 - (b) any of the conditions specified in subsection (4) is satisfied.
- (4) The conditions specified for subsections (2)(b) and (3)(b) are that—
 - (a) the information has already been made available to the public because of being disclosed in any circumstances in which, or for any purpose for which, disclosure is not precluded by section 76B;
 - (b) the disclosure is for the purpose of seeking advice from, or giving advice by, counsel or a solicitor or other professional adviser, who is acting or proposing to act in a professional capacity in connection with any matter arising under this Ordinance;
 - (c) the disclosure by the person specified in subsection (1)(a) or (b) is in connection with any judicial or other proceedings to which the person is a party; and
 - (d) the disclosure is in accordance with an order of a court, magistrate or tribunal, or in accordance with a law of