



公 司 註 冊 處  
COMPANIES REGISTRY

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金鐘道政府合署十五樓

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## COMPANIES REGISTRY EXTERNAL CIRCULAR NO. 2 / 2009

### Registration of Charges with the Companies Registry

This circular sets out the common reasons for the Companies Registry (“the Registry”) to return charges documents delivered under Part III of the Companies Ordinance to presentors for correction before registration. It also provides a general guide to the presentors of charges documents on how to avoid some common errors found in such documents.

#### Common reasons for returning charges documents for correction

2. Where errors are found on a Form M1 – Mortgage or Charge Details and/or the accompanying instrument of charge, the Registry will return the documents to the presentor for clarification and amendment. Although the errors are minor and clerical in most cases, they have to be corrected before the Form M1 can be registered. This generates additional work for the presentor and the Registry and affects the timely registration and availability of the charges documents for public search.

3. The Registry has completed a review of the charges documents received for registration and I attach herewith a list of common errors at **Annex** with advice on how the charges documents can be prepared correctly in the first place for submission to the Registry. The list at **Annex** can be read in conjunction with the samples of completed Forms M1 provided in the “Public Forms” - “Specified Forms” section on our website ([www.cr.gov.hk](http://www.cr.gov.hk)).

4. Presentors of charges documents are strongly advised to ensure that accurate and correct information is provided on documents submitted to the Registry for registration. Where there is any omission or misstatement in the particulars of charges on the register, a court order granting relief for rectification will need to be obtained and a sealed copy of the court order is required to be filed with the Registry.

**Enquiries**

5. Enquiries regarding this circular may be directed to Ms Ayesha BUTT, Assistant Registry Manager (Charges & Liquidation), at 2867 2611.

**Ms Ada L L CHUNG**  
**Registrar of Companies**

c.c. CR/HQ/12/70/10

**Common reasons for returning charges documents for correction -  
Form M1 “Mortgage or Charge Details” and Instrument(s) creating the charge(s)**

**Form M1**

***Section 1 - Company Name***

**1. Incorrect company name**

*Advice: Only the name of the company as registered under the Companies Ordinance instead of the business name should be stated.*

***Section 2 - Instrument Creating or Evidencing the Mortgage or Charge***

**2. Incorrect description of the instrument**

*Advice: The description of the instrument creating or evidencing the mortgage or charge should be the same as that appearing on the instrument accompanying Form M1.*

**3. Missing / Incorrect date of creation of the charge**

*Advice: Check the instrument and fill in the correct date of creation (DD/MM/YYYY) of the charge.*

***Section 3 - Amount Secured***

**4. Incomplete description of the amount secured**

- When the charge is secured up to a fixed amount, such amount has not been included.

*Advice: Check if an extent of the amount secured is included in the instrument and, if applicable, state the extent.*

- Where a facility was provided by a financial institution, the facility stated is wrongly described as banking facility.

*Advice: The type of facility being secured should be stated as “credit facility”.*

- Abbreviated terms such as “T/A” and O/B” have been used.

*Advice: Make sure that all terms used in the Form are stated in full.*

#### ***Section 4 - Particulars of Mortgagee or Chargee***

##### **5. Incomplete description of the name of the mortgagee or chargee**

- There are occasions where charges are created in favour of a mortgagee or chargee acting on behalf of other parties such as “as trustee for the Secured Parties” or “as Agent for the Beneficiaries”, etc. but an incomplete description of the name of the mortgagee or chargee is stated.

*Advice: Give a full description of the mortgagee or chargee and their capacity, e.g. “ABC Bank acting as trustee for the Secured Parties” and provide the definitions of all the capitalised terms included in the Form.*

##### **6. Missing address of the mortgagee or chargee**

*Advice: Make sure that the address of the mortgagee or chargee is stated.*

#### ***Section 6 - Short Particulars of the Property Mortgaged or Charged***

##### **7. Incomplete description of property mortgaged or charged**

For a mortgage or charge involving landed property

- Omission or incorrect reporting of either the entire undivided share and lot number or the postal address.

*Advice: Make sure that the entire undivided share and lot number and the postal address are correctly stated. In case of doubt, copies of supporting evidence such as the relevant land search results would be required for checking purposes.*

- Omission of the percentage of the property owned by the chargor.

*Advice: The percentage of the property owned by the chargor should be stated and copies of supporting evidence such as the relevant assignment or land search results should be provided for checking purposes.*

For rental assignment

- Incorrect description of the property charged e.g. landed property has been stated when the property charged is the rental proceeds / sale proceeds, etc.
- Incomplete description of the property charged e.g. only charge on rentals is included while the charged property also includes deposits, rental account and / or deposit account.

*Advice: Make sure that the correct description of the property charged is reported and provide the definitions of all capitalised terms included in the Form.*

**Section 7 - Date of Acquisition of Property**

**8. The date of creation of the mortgage or charge is wrongly given as the date of acquisition of the property**

*Advice: The field is intended only for reporting the Date of Acquisition of the Property which is subject to a charge of any kind and NOT for reporting the date of creation of the mortgage or charge. Supporting documents evidencing the acquisition should be submitted for reference.*

**Other miscellaneous errors**

**9. Use of specific capitalised terms without providing their definitions**

*Advice: Provide the definitions of all capitalised terms included in the Form. Where definitions of such terms are not included in the instrument creating or evidencing the charge, copies of other relevant documents such as Loan Agreement defining such terms should be provided for checking purposes.*

**10. The capacity of the signatory has not been specified**

*Advice: Check and cross out the irrelevant capacities provided in the Signature Section.*

**11. The Form is delivered beyond the due date for filing without a court order**

*Advice: A sealed copy of the court order granting relief for extending the time of registration is required to be lodged together with the Form and the instrument where they have not been delivered for registration within 5 weeks of the date of creation of the charge.*

**12. A Form M1 is submitted for rectification of errors in a registered Form M1**

*Advice:* A fresh M1 will not be accepted for the purpose of rectifying errors such as an omission or a mis-statement in a registered charge. A court order granting relief for such rectification should be obtained and a sealed copy of the court order should be lodged for filing. The fresh Form M1 is not required.

**13. The Form has been completed in simplified Chinese characters**

*Advice:* When the Form is completed in Chinese, traditional Chinese characters should be used.

**Instrument(s) creating or evidencing the charge(s)**

**14. The original instrument has not been submitted together with the Form**

*Advice:* The original instrument should be submitted. Copy of an instrument will be accepted **only if** the charge is created out of Hong Kong **and** the charged property is situated outside Hong Kong. The copy instrument should be properly certified in accordance with Regulation 5 of the Companies (Forms) Regulations.

**15. English translation of the instrument has not been certified in the prescribed manner.**

*Advice:* Make sure that the English translation of the instrument has been certified in accordance with Regulation 6 of the Companies (Forms) Regulations.

*The above advice is given for general reference only and should not be regarded as a substitute for legal advice. The Companies Registry will consider each individual case with respect to the facts and circumstances of the case.*

*In cases of doubt, presentors should obtain legal advice to ensure proper compliance with the requirements under the Companies Ordinance.*