



公 司 註 冊 處
COMPANIES REGISTRY

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13 July 2018

Companies Registry External Circular No. 4 / 2018

Commencement of the Securities and Futures (Amendment) Ordinance 2016 Introduction of Open-ended Fund Company Structure

This circular announces that a new form of company called “Open-ended Fund Company” (“OFC”) will be introduced with effect from **30 July 2018**.

Introduction

2. Currently, an open-ended investment fund may be established under the laws of Hong Kong in the form of a unit trust but not in a corporate form owing to various restrictions on capital reduction under the Companies Ordinance (Cap. 622) (“CO”). The Securities and Futures (Amendment) Ordinance 2016 (“the Amendment Ordinance”) introduces a new OFC structure in Hong Kong. This will allow investment funds to be set up in the form of a company, but with the flexibility for investors to trade the funds through the creation and cancellation of shares.

3. Under the OFC regime, the Securities and Futures Commission (“SFC”), being the principal regulator, is responsible for the registration and regulation of OFCs. The legal and regulatory requirements relating to OFCs are set out in Part IVA of the Securities and Futures Ordinance (Cap.571) (“SFO”) and the Securities and Futures (Open-ended Fund Companies) Rules (Cap.571AQ) (“OFC Rules”).

4. The Registrar of Companies (“the Registrar”) oversees the incorporation and statutory corporate filings of OFCs and the Official Receiver the winding-up procedures.

One-stop Establishment Process of OFCs

5. Under sections 112C and 112D of the SFO, an OFC will be established upon registration with the SFC and obtaining a certificate of incorporation from the

Registrar. This is done via a “one-stop approach” whereby an applicant only needs to submit all documents and fees in respect of the application for incorporation and business registration of the OFC as required by the Registrar and the Commissioner of Inland Revenue respectively to the SFC. Registration with the SFC will take effect upon the issue of a certificate of incorporation by the Registrar.

Filing Obligations of OFCs after Incorporation

6. As OFCs are incorporated under the SFO, they will be subject to the filing obligations under the SFO and the OFC Rules (rather than the CO). However, regarding major changes in company particulars, the filing requirements for OFCs are largely the same as those for conventional companies under the CO. For example, the following changes of OFCs are required to be reported to the Registrar : -

- (i) Change of company name;
- (ii) Change of address of registered office;
- (iii) Change of directors (appointment / cessation of appointment / change of particulars); and
- (iv) Alteration of instrument of incorporation.

7. Any change of company name and appointment of new director(s) of an OFC will require prior approval from the SFC. The specified forms reporting the change of company name (together with the appropriate fee) and appointment of director(s) will need to be delivered to the SFC first. The SFC will send the relevant forms and fee to the Registrar for registration after approval is given by the SFC to the relevant change.

8. Unlike conventional companies, however, given their special nature, OFCs are not required to file any annual return, notice of alteration of share capital, return of allotment, return of share redemption or buy-back and notice relating to mortgage and charge, etc. to the Registrar.

9. To facilitate the implementation of the OFC regime, the Registrar has specified 25 forms for use with effect from 30 July 2018. A list of all the newly specified forms is set out at **Annex**. The forms can be downloaded from the thematic section on OFC on the Companies Registry (“the Registry”)’s website at www.cr.gov.hk/en/ofc. A complete set of the new forms in CD-ROM and hard copies of individual forms are also available for purchase at the Registry’s office on the 14th floor of the Queensway Government Offices, 66 Queensway, Hong Kong.

Search on OFC Information

10. The Registrar will maintain an OFC Register which contains:

- (i) the information in every document registered by the Registrar;
- (ii) the information in every certificate issued by the Registrar; and
- (iii) an index of directors of OFCs.

11. The OFC Register will be available for public inspection. The fees for inspecting the image records or information on the register (e.g. particulars of directors) are set out in the Securities and Futures (Open-ended Fund Companies) (Fees) Regulation. Some basic information of an OFC is also available free of charge. Customers can search the OFC Register online at the Registry's Cyber Search Centre at www.icris.cr.gov.hk or by using the Company Search Mobile Service at www.mobile-cr.gov.hk.

Enquiries

12. Please visit the website of the SFC at www.sfc.hk for more information. A thematic section on "Open-ended Fund Company" has been set up on the Registry's website at www.cr.gov.hk/en/ofc. The section contains the full text of the Amendment Ordinance, relevant subsidiary legislation, frequently asked questions and the new specified forms.



13. For enquiries relating to the implementation of the OFC regime, please contact:

Securities and Futures Commission

Tel: (852) 2231 1222

Email: enquiry@sfc.hk

Companies Registry

Ms Lisa NG,
Companies Registration Officer I
(New Companies)

Tel: (852) 2867 2588
Email: crenq@cr.gov.hk

For enquiries on
incorporation and
change of name

Ms Cindy CHENG,
Companies Registration Officer I
(Registration)

Tel: (852) 2867 2804
Email: crenq@cr.gov.hk

For other filing
requirements

Ms Ada LL CHUNG
Registrar of Companies

List of New Specified Forms

新指明表格一覽表

A. For use under Part IVA of the Securities and Futures Ordinance (Cap.571)

《證券及期貨條例》(第 571 章) 第 IVA 部下使用的表格

| | Form Number 表格編號 | Section 有關係文 | Description of Form 表格的描述 |
|----|---------------------|-----------------|-------------------------------------------------------------------|
| 1. | *OFCNC1 (SFC) | 112C(1)(a) | Open-ended Fund Company - Incorporation Form 開放式基金型公司 - 法團成立表格 |

B. For use under the Securities and Futures (Open-ended Fund Companies) Rules (Cap.571AQ)

《證券及期貨(開放式基金型公司)規則》(第 571AQ 章)下使用的表格

| | Form Number 表格編號 | Rule 有關係文 | Description of Form 表格的描述 |
|----------------------------------------------------------------|---------------------|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Auditors 核數師 | | | |
| 1. | OFCA1 | 140(4) | Open-ended Fund Company - Notice of Removal of Auditor 開放式基金型公司 - 免任核數師通知書 |
| 2. | OFCA2 | 138(3) | Open-ended Fund Company - Notice of Resignation of Auditor 開放式基金型公司 - 核數師辭職通知書 |
| Change of Company Name 更改公司名稱 | | | |
| 3. | *OFCNC2 (SFC) | 9(4) | Open-ended Fund Company - Notice of Change of Company Name 開放式基金型公司 - 更改公司名稱通知書 |
| Directors and Process Agent (Director) 董事及法律程序文件代理人(董事) | | | |
| 4. | *OFCD1 (SFC) | 106(1) | Open-ended Fund Company - Notice of Appointment of Director 開放式基金型公司 - 委任董事通知書 |
| 5. | OFCD2 | 107(1) | Open-ended Fund Company - Notice of Cessation of Appointment of Director 開放式基金型公司 - 停任董事通知書 |
| 6. | OFCD3 | 107(1) | Open-ended Fund Company - Notice of Change in Particulars of Director 開放式基金型公司 - 更改董事詳情通知書 |
| 7. | OFCD4 | 107(2) | Open-ended Fund Company - Notice of Resignation of Director (by Resigning Director) 開放式基金型公司 - 董事辭職通知書(由辭職董事交付) |
| 8. | OFCPA1 | 102(6) | Open-ended Fund Company - Notice of Change in Particulars of Process Agent (Director) 開放式基金型公司 - 更改法律程序文件代理人詳情通知書(董事) |
| Instrument of Incorporation 法團成立文書 | | | |
| 9. | OFCIN1 | 14 & 15 | Open-ended Fund Company - Notice of Alteration of Instrument of Incorporation 開放式基金型公司 - 法團成立文書修改通知書 |
| Receiver / Mortgagee 接管人 / 承按人 | | | |
| 10. | OFRCR1 | 174(1) & (3) | Open-ended Fund Company - Notice of Appointment of Receiver or Manager or Mortgagee Entering into Possession of Property 開放式基金型公司 - 委任接管人或經理人或承按人行使財產管有權通知書 |
| 11. | OFRCR2 | 175(1) & (2) | Open-ended Fund Company - Notice of Cessation of Appointment of Receiver or Manager or Mortgagee Going out of Possession of Property 開放式基金型公司 - 停任接管人或經理人或承按人不再管有財產通知書 |

| | Form Number 表格編號 | Rule 有關係文 | Description of Form 表格的描述 |
|----------------------------------------------------------------------|-----------------------------|-----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 12. | OFCRC3 | 175(3) | Open-ended Fund Company - Notice of Change in Particulars of Receiver, Manager or Mortgagee in Possession of Property 開放式基金型公司 - 更改接管人、經理人或管有財產的承按人的詳情通知書 |
| 13. | OFCRC4 | 172 | Open-ended Fund Company - Statement of Affairs 開放式基金型公司 - 資產負債狀況說明書 |
| 14. | OFCRC5 | 172 | Open-ended Fund Company - Receiver or Manager's Abstract of Receipts and Payments 開放式基金型公司 - 接管人或經理人的收支摘要 |
| 15. | **OFCRC6 | 172 | Notice to Open-ended Fund Company of Appointment of Receiver or Manager 向開放式基金型公司發出的委任接管人或經理人的通知書 |
| Registered Offices and Location of Registers 註冊辦事處及登記冊及紀錄備存地點 | | | |
| 16. | OFCR1 | 20(1) | Open-ended Fund Company - Notice of Change of Address of Registered Office 開放式基金型公司 - 註冊辦事處地址更改通知書 |
| 17. | OFCR2 | 68(2) & (4), 98(2) & (3) & 104(3) & (4) | Open-ended Fund Company - Notice of Location of Registers and Records 開放式基金型公司 - 登記冊及紀錄備存地點通知書 |
| Winding Up (Voluntary winding-up) 清盤 (自動清盤) | | | |
| 18. | OFCW1 | 177 & 188 | Open-ended Fund Company - Certificate of Solvency 開放式基金型公司 - 有償債能力證明書 |
| 19. | OFCW2 | 177 & 188 | Open-ended Fund Company - Statement of Voluntary Winding Up under Special Procedure in Case of Inability to Continue Business 開放式基金型公司 - 因無能力繼續業務而依循特別程序自動清盤的陳述書 |
| 20. | OFCW3 | 177 & 188 | Open-ended Fund Company - Notice of Appointment of Liquidator or Provisional Liquidator 開放式基金型公司 - 委任清盤人或臨時清盤人通知書 |
| 21. | OFCW4 | 177 & 188 | Open-ended Fund Company - Notice of Change in Particulars of Liquidator or Provisional Liquidator 開放式基金型公司 - 更改清盤人或臨時清盤人詳情通知書 |
| 22. | OFCW5 | 177 & 188 | Open-ended Fund Company - Notice of Cessation to Act as Liquidator or Provisional Liquidator 開放式基金型公司 - 清盤人或臨時清盤人停任通知書 |

C. For use under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32)
《公司(清盤及雜項條文)條例》(第 32 章)下使用的表格

| | Form Number 表格編號 | Section 有關係文 | Description of Form 表格的描述 |
|------------------------------------------------|-----------------------------|---------------------------------|----------------------------------------------------------------------------------------------------------------------|
| Winding Up (Court winding-up) 清盤 (法院清盤) | | | |
| 1. | OFCW3 | 195(a), 228A(10) & 253(1)(b) | Open-ended Fund Company - Notice of Appointment of Liquidator or Provisional Liquidator 開放式基金型公司 - 委任清盤人或臨時清盤人通知書 |
| 2. | OFCW6 | 226A(1) | Open-ended Fund Company - Certificate of Release of Liquidator 開放式基金型公司 - 免除清盤人職務證明書 |

*For delivery to the Securities and Futures Commission ("SFC") for applying approval 須交付證券及期貨事務監督委員會申請批准

**Not for delivery to the Companies Registry or SFC 不須交付公司註冊處或證券及期貨事務監督委員會