

L.N. 98 of 2021

Companies (Residential Addresses and Identification Numbers) Regulation

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Companies (Residential Addresses and Identification Numbers) Regulation

(Made by the Secretary for Financial Services and the Treasury under sections 49(8) and (9), 51(5), 58(5) and 910(b) of the Companies Ordinance (Cap. 622))

Part 1

Preliminary

1. Commencement

- (1) Parts 1, 4 and 5 (except section 13(1)) and the Schedule come into operation on the day on which section 58(5) of the Companies Ordinance (Cap. 622) comes into operation.
- (2) Parts 2 and 3 and section 13(1) come into operation on the day on which sections 49(8) and (9) and 51(5) of the Companies Ordinance (Cap. 622) come into operation.

2. Interpretation

In this Regulation—

authorized institution (認可機構) has the meaning given by section 2(1) of the Banking Ordinance (Cap. 155);

Cap. 159 (《第159章》) means the Legal Practitioners Ordinance (Cap. 159);

Cap. 615 (《第615章》) means the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615);

certified public accountant (practising) (執業會計師) has the meaning given by section 2(1) of the Professional Accountants Ordinance (Cap. 50);

company (公司) has the meaning given by section 20(1) of the Ordinance;

DNFBP (指定非金融業人士) has the meaning given by section 1 of Part 2 of Schedule 1 to Cap. 615;

document (文件) has the meaning given by section 20(1) of the Ordinance;

financial institution (金融機構) has the meaning given by section 1 of Part 2 of Schedule 1 to Cap. 615;

foreign lawyer (外地律師) means a foreign lawyer as defined by section 2(1) of Cap. 159 who practises foreign law in—

(a) a Hong Kong firm; or

(b) a foreign firm as defined by section 2(1) of Cap. 159;

Hong Kong firm (香港律師行) has the meaning given by section 2(1) of Cap. 159;

liquidator (清盤人) means a person who is a provisional liquidator or liquidator within the meaning of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32);

public body (公共機構) includes—

(a) any public authority or undertaking; and

(b) any body that has power to act in a public capacity under, or for the purposes of, any enactment;

scheduled person (表列人士) means a person specified in the Schedule;

solicitor (律師) means a solicitor as defined by section 2(1) of Cap. 159 who practises law in a Hong Kong firm;

trustee in bankruptcy (破產案受託人) means a person who is, under the Bankruptcy Ordinance (Cap. 6)—

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- (a) a provisional trustee or trustee of the property of a bankrupt; or
 - (b) an interim trustee of the property of a debtor or of any part of the property.
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Part 2

Application Made for Purposes of Section 49(1) of Ordinance

- 3. Application to withhold residential address or identification number from public inspection**
- (1) An application made for the purposes of section 49(1)(a) of the Ordinance—
 - (a) must be in the specified form;
 - (b) must contain—
 - (i) a correspondence address required for the purposes of section 49(3) of the Ordinance; and
 - (ii) any other information specified by the Registrar for the application; and
 - (c) must be accompanied by any documents specified by the Registrar for the application.
 - (2) The correspondence address referred to in subsection (1)(b)(i) must not be a post office box number.
 - (3) An application made for the purposes of section 49(1)(b) of the Ordinance—
 - (a) must be in the specified form;
 - (b) must contain any information specified by the Registrar for the application; and
 - (c) must be accompanied by any documents specified by the Registrar for the application.

4. Powers of Registrar to require additional documents and information

The Registrar may require a person who makes an application for the purposes of section 49(1) of the Ordinance to provide additional documents and information to the Registrar for the purposes of determining the application.

Part 3

Application Made for Purposes of Section 51(3) of Ordinance

5. Interpretation of Part 3

In this Part—

data subject (資料當事人) means a person—

- (a) whose address is withheld from public inspection under section 49(1)(a) of the Ordinance; or
- (b) the number of the identity card or passport of whom is withheld from public inspection under section 49(1)(b) of the Ordinance;

withheld information (不提供的資料) has the meaning given by section 47 of the Ordinance.

6. Application for disclosure by Registrar of withheld information

An application made for the purposes of section 51(3) of the Ordinance—

- (a) must be in the specified form;
- (b) must contain any information specified by the Registrar for the application; and
- (c) must be accompanied by—
 - (i) any documents specified by the Registrar for the application;
 - (ii) for an application for disclosure by the Registrar of withheld information to a person authorized by a data subject to obtain the information—documentary proof of the authorization; and

- (iii) subject to section 13(1)—a fee of \$10 for obtaining withheld information of each data subject.

7. Powers of Registrar to require additional documents and information

The Registrar may require a person who makes an application for the purposes of section 51(3) of the Ordinance to provide additional documents and information to the Registrar for the purposes of determining the application.

8. Persons to whom withheld information may be disclosed and conditions in accordance with which withheld information may be disclosed

- (1) Subject to subsections (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12), the Registrar may, on an application made for the purposes of section 51(3) of the Ordinance (*specified application*), disclose withheld information to the following persons—
 - (a) a data subject;
 - (b) a person who is authorized in writing by a data subject to obtain the information;
 - (c) a member of the company;
 - (d) a liquidator;
 - (e) a trustee in bankruptcy;
 - (f) a public officer or public body;
 - (g) a scheduled person;
 - (h) a solicitor or foreign lawyer;
 - (i) a certified public accountant (practising);
 - (j) a financial institution or DNFBP.

- (2) On a specified application for disclosure by the Registrar of withheld information to a data subject, the Registrar may only disclose to the data subject such information relating to the data subject.
- (3) On a specified application for disclosure by the Registrar of withheld information to the person authorized as described in subsection (1)(b), the Registrar may only disclose to the person such information relating to the data subject concerned.
- (4) On a specified application for disclosure by the Registrar of withheld information to a member of the company, the Registrar may only disclose to the member such information in a document delivered to the Registrar for registration in respect of the company.
- (5) Despite subsection (4), the Registrar must not disclose any withheld information under that subsection to the member if the member fails to provide the Registrar with a statement, made by the member, confirming that the member is a member of the company concerned.
- (6) The Registrar must not disclose any withheld information to a liquidator if the liquidator fails to provide the Registrar with a statement, made by the liquidator, confirming that—
 - (a) the information is required by the liquidator for the purpose of the performance of the liquidator's functions as a liquidator; and
 - (b) the information would be used only for that purpose.
- (7) The Registrar must not disclose any withheld information to a trustee in bankruptcy if the trustee fails to provide the Registrar with a statement, made by the trustee, confirming that—

- (a) the information is required by the trustee for the purpose of the performance of the trustee's functions as a trustee in bankruptcy; and
 - (b) the information would be used only for that purpose.
- (8) The Registrar must not disclose any withheld information to a public officer or public body if the officer or body fails to provide the Registrar with a statement, made by the officer or body, confirming that—
 - (a) the information is required by the officer or body for the purpose of the performance of the officer's or body's functions; and
 - (b) the information would be used only for that purpose.
- (9) The Registrar must not disclose any withheld information to a scheduled person if the person fails to provide the Registrar with a statement, made by the person, confirming that—
 - (a) the information is required by the person for the purpose of, or in connection with, the performance of the functions conferred or imposed on the person under any enactment; and
 - (b) the information would be used only for that purpose.
- (10) The Registrar must not disclose any withheld information to a solicitor or foreign lawyer if the solicitor or foreign lawyer fails to provide the Registrar with a statement, made by the solicitor or foreign lawyer, confirming that—
 - (a) the information is required by the solicitor or foreign lawyer for the purpose of the performance of the solicitor's or foreign lawyer's functions as a solicitor or foreign lawyer; and
 - (b) the information would be used only for that purpose.

- (11) The Registrar must not disclose any withheld information to a certified public accountant (practising) if the accountant fails to provide the Registrar with a statement, made by the accountant, confirming that—
- (a) the information is required by the accountant for the purpose of the performance of the accountant’s functions as a certified public accountant (practising); and
 - (b) the information would be used only for that purpose.
- (12) The Registrar must not disclose any withheld information to a financial institution or DNFBP if the institution or DNFBP fails to provide the Registrar with a statement, made by the institution or DNFBP, confirming that—
- (a) the information is required by the institution or DNFBP—
 - (i) for the purpose of, or in connection with, the performance of the institution’s or DNFBP’s functions conferred or imposed on the institution or DNFBP under Cap. 615; or
 - (ii) if the institution is an authorized institution— for the purpose of the performance of an authorized institution’s functions other than the functions mentioned in subparagraph (i); and
 - (b) the information would be used only for that purpose.
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Part 4

Application Made for Purposes of Section 58(3) of Ordinance

9. Interpretation of Part 4

In this Part—

data subject (資料當事人) means a person whose address, or the number of the identity card or passport of whom, is contained in a document to which section 54(2) of the Ordinance applies;

protected information (受保護資料) has the meaning given by section 53(1) of the Ordinance.

10. Application for disclosure by Registrar of protected information

An application made for the purposes of section 58(3) of the Ordinance—

- (a) must be in the specified form;
- (b) must contain any information specified by the Registrar for the application; and
- (c) must be accompanied by—
 - (i) any documents specified by the Registrar for the application;
 - (ii) for an application for disclosure by the Registrar of protected information to a person authorized by a data subject to obtain the information—documentary proof of the authorization; and
 - (iii) subject to section 13(2)—a fee of \$10 for obtaining protected information of each data subject.

11. Powers of Registrar to require additional documents and information

The Registrar may require a person who makes an application for the purposes of section 58(3) of the Ordinance to provide additional documents and information to the Registrar for the purposes of determining the application.

12. Persons to whom protected information may be disclosed and conditions in accordance with which protected information may be disclosed

- (1) Subject to subsections (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12), the Registrar may, on an application made for the purposes of section 58(3) of the Ordinance (*specified application*), disclose protected information to the following persons—
 - (a) a data subject;
 - (b) a person who is authorized in writing by a data subject to obtain the information;
 - (c) a member of the company;
 - (d) a liquidator;
 - (e) a trustee in bankruptcy;
 - (f) a public officer or public body;
 - (g) a scheduled person;
 - (h) a solicitor or foreign lawyer;
 - (i) a certified public accountant (practising);
 - (j) a financial institution or DNFBP.
- (2) On a specified application for disclosure by the Registrar of protected information to a data subject, the Registrar may only disclose to the data subject such information relating to the data subject.

- (3) On a specified application for disclosure by the Registrar of protected information to the person authorized as described in subsection (1)(b), the Registrar may only disclose to the person such information relating to the data subject concerned.
- (4) On a specified application for disclosure by the Registrar of protected information to a member of the company, the Registrar may only disclose to the member such information in a document delivered to the Registrar for registration in respect of the company.
- (5) Despite subsection (4), the Registrar must not disclose any protected information under that subsection to the member if the member fails to provide the Registrar with a statement, made by the member, confirming that the member is a member of the company concerned.
- (6) The Registrar must not disclose any protected information to a liquidator if the liquidator fails to provide the Registrar with a statement, made by the liquidator, confirming that—
 - (a) the information is required by the liquidator for the purpose of the performance of the liquidator's functions as a liquidator; and
 - (b) the information would be used only for that purpose.
- (7) The Registrar must not disclose any protected information to a trustee in bankruptcy if the trustee fails to provide the Registrar with a statement, made by the trustee, confirming that—
 - (a) the information is required by the trustee for the purpose of the performance of the trustee's functions as a trustee in bankruptcy; and
 - (b) the information would be used only for that purpose.

- (8) The Registrar must not disclose any protected information to a public officer or public body if the officer or body fails to provide the Registrar with a statement, made by the officer or body, confirming that—
 - (a) the information is required by the officer or body for the purpose of the performance of the officer's or body's functions; and
 - (b) the information would be used only for that purpose.
- (9) The Registrar must not disclose any protected information to a scheduled person if the person fails to provide the Registrar with a statement, made by the person, confirming that—
 - (a) the information is required by the person for the purpose of, or in connection with, the performance of the functions conferred or imposed on the person under any enactment; and
 - (b) the information would be used only for that purpose.
- (10) The Registrar must not disclose any protected information to a solicitor or foreign lawyer if the solicitor or foreign lawyer fails to provide the Registrar with a statement, made by the solicitor or foreign lawyer, confirming that—
 - (a) the information is required by the solicitor or foreign lawyer for the purpose of the performance of the solicitor's or foreign lawyer's functions as a solicitor or foreign lawyer; and
 - (b) the information would be used only for that purpose.
- (11) The Registrar must not disclose any protected information to a certified public accountant (practising) if the accountant fails to provide the Registrar with a statement, made by the accountant, confirming that—

- (a) the information is required by the accountant for the purpose of the performance of the accountant's functions as a certified public accountant (practising); and
 - (b) the information would be used only for that purpose.
 - (12) The Registrar must not disclose any protected information to a financial institution or DNFBP if the institution or DNFBP fails to provide the Registrar with a statement, made by the institution or DNFBP, confirming that—
 - (a) the information is required by the institution or DNFBP—
 - (i) for the purpose of, or in connection with, the performance of the institution's or DNFBP's functions conferred or imposed on the institution or DNFBP under Cap. 615; or
 - (ii) if the institution is an authorized institution— for the purpose of the performance of an authorized institution's functions other than the functions mentioned in subparagraph (i); and
 - (b) the information would be used only for that purpose.
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Part 5

Exemption from Fees

13. Exemption from fees

- (1) For an application made for the purposes of section 51(3) of the Ordinance, each of the persons specified in section 8(1)(a), (b), (c), (d), (e), (f) and (g) is exempted from the fee specified in section 6(c)(iii).
 - (2) For an application made for the purposes of section 58(3) of the Ordinance, each of the persons specified in section 12(1)(a), (b), (c), (d), (e), (f) and (g) is exempted from the fee specified in section 10(c)(iii).
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Schedule

[ss. 1 & 2]

Scheduled Persons

1. An inspector as defined by section 838(1) of the Ordinance
2. An inspector appointed under section 95(1) of the Trustee Ordinance (Cap. 29)
3. A recognized clearing house as defined by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571)
4. A recognized exchange company as defined by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571)
5. A recognized exchange controller as defined by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571)
6. A recognized investor compensation company as defined by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571)
7. A person directed or appointed to investigate any matter under section 11(1) of Cap. 615

Christopher HUI Ching-yu
Secretary for Financial Services
and the Treasury

15 June 2021

Explanatory Note

The main purposes of this Regulation are—

- (a) to provide for the information to be contained in an application made for the purposes of section 49(1) of the Companies Ordinance (Cap. 622) (*Ordinance*) to withhold a residential address or identification number from public inspection;
- (b) to provide for the form of, and the documents to accompany, an application mentioned in subparagraph (a);
- (c) to provide for the information to be contained in an application made for the purposes of section 51(3) of the Ordinance for disclosure of a residential address or identification number withheld from public inspection under section 49(1) of the Ordinance;
- (d) to specify the persons to whom an address or identification number mentioned in subparagraph (c) may be disclosed, and to provide for the conditions in accordance with which the address or number may be disclosed to those persons;
- (e) to provide for the information to be contained in an application made for the purposes of section 58(3) of the Ordinance for disclosure of certain protected information;
- (f) to provide for the form of, and the documents and fees to accompany, the applications mentioned in subparagraphs (c) and (e);

- (g) to provide for the powers of the Registrar of Companies appointed under section 21(1) of the Ordinance to require additional documents and information for the purposes of determining the applications mentioned in subparagraphs (a), (c) and (e);
- (h) to specify the persons to whom the protected information mentioned in subparagraph (e) may be disclosed, and to provide for the conditions in accordance with which the information may be disclosed to those persons; and
- (i) to provide for an exemption from the fees mentioned in subparagraph (f) for certain persons.