

19 July 2018



## Cap. 571D

### Securities and Futures (Professional Investor) Rules (Cap. 571D)

“professional investor” means:

- a) an individual having a portfolio of not less than HKD 8 million or its equivalent in any foreign currency at the relevant date or as ascertained by referring to any one or more of the following documents issued or submitted within 12 months before the relevant date –
  - i. a statement of account or a certificate issued by a custodian;
  - ii. a certificate issued by an auditor or a certified public accountant;
  - iii. a public filing submitted by or on behalf of the individual, when any one or more of the following are taken into account –
    - A. a portfolio on the individual's own account;
    - B. a portfolio on a joint account with the individual's spouse or child(ren);
    - C. the individual's share of a portfolio on a joint account with one or more persons other than the individual's spouse or child(ren) (i.e. as specified in a written agreement among the account holders; or an equal share of the portfolio in the absence of a written agreement);
    - D. a portfolio of a corporation which, at the relevant date, has its principal business the holding of investments and is wholly owned by the individual;
  
- b) a trust corporation having been entrusted under one or more trusts of which it acts as a trustee with total assets of not less than HKD 40 million or its equivalent in any foreign currency at the relevant date or as ascertained by referring to any one or more of the following –
  - i. the most recent audited financial statement prepared within 16 months before the relevant date in respect of the trust corporation (or a trust of which it acts as a trustee);
  - ii. any one or more of the following documents issued or submitted within 12 months before the relevant date –
    - A. a statement of account or a certificate issued by a custodian;
    - B. a certificate issued by an auditor or a certified public accountant;
    - C. a public filing submitted by or on behalf of the trust corporation (whether on its own behalf or in respect of a trust of which it acts as a trustee);
  
- c) a corporation having a portfolio of not less than HKD 8 million or its equivalent in any foreign currency or total assets of not less than HKD 40 million or its equivalent in any foreign currency at the relevant date or as ascertained by referring to any one or more of the following –
  - i. the most recent audited financial statement prepared within 16 months before the relevant date in respect of the corporation;
  - ii. any one or more of the following documents issued or submitted within 12 months before the relevant date –

- A. a statement of account or a certificate issued by a custodian;
  - B. a certificate issued by an auditor or a certified public accountant;
  - C. a public filing submitted by or on behalf of the corporation;
- d) a corporation which, at the relevant date, has as its principal business the holding of investments and is wholly owned by any one or more of the persons falling within the definition of *professional investors* under paragraph (a), (b), (c), (d) or (f) hereof or under paragraph (a), (d), (e), (f) (g) or (h) of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);
- e) a corporation which, at the relevant date, wholly owns a corporation referred to in paragraph (c) above; or
- f) a partnership having a portfolio of not less than HKD 8 million or its equivalent in any foreign currency or total asset of not less than HKD 40 million or its equivalent in any foreign currency at the relevant date or as ascertained by referring to any one or more of the following –
- i. the most recent audited financial statement prepared within 16 months before the relevant date in respect of the partnership;
  - ii. any one or more of the following documents issued or submitted within 12 months before the relevant date –
    - A. a statement of account or a certificate issued by a custodian;
    - B. a certificate issued by an auditor or a certified public accountant;
    - C. a public filing submitted by or on behalf of the partnership.

Notes:

1. *Custodian* means:
  - a) a corporation the principal business of which is to act as a custodian of securities or other property for another person, whether on trust or by contract; or
  - b) any of the following persons whose business includes acting as a custodian of securities or other property for another person, whether on trust or by contract-
    - i. an authorized financial institution;
    - ii. a bank which is not an authorized financial institution but is regulated under the law of any place outside Hong Kong;
    - iii. a licensed corporation;
    - iv. a person carrying on the business of the provision of investment services and regulated under the law of any place outside Hong Kong.
2. *Portfolio* means a portfolio comprising any of the following-
  - a) securities;
  - b) a certificate of deposit issued by-
    - i. an authorized financial institution; or
    - ii. a bank which is not an authorized financial institution but is regulated under the law of any place outside Hong Kong;
  - c) in relation to an individual, corporation or partnership, money held by a custodian for the individual, corporation or partnership.
3. *Public filing* means a document that, pursuant to the legal or regulatory requirements in Hong Kong or in a place outside Hong Kong, has been submitted to a person or body that is under a duty to publish the document to, or otherwise make the document available for inspection by, members of the public in Hong Kong or in a place outside Hong Kong, by or on behalf or –
  - a) a trust corporation (whether on its own behalf or in respect of a trust of which it acts as a trustee);
  - b) an individual;
  - c) a corporation (other than a trust corporation referred to in paragraph (a)); or
  - d) a partnership.

**Cap. 571**

**Paragraphs (a) to (i) of the definition of “professional investor” in Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571)**

“professional investor” means –

- a) any recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company, or any person authorized to provide automated trading services under section 95(2) of this Ordinance;

- b) any intermediary, or any other person carrying on the business of the provision of investment services and regulated under the law of any place outside Hong Kong;
- c) any authorized financial institution, or any bank which is not an authorized financial institution but is regulated under the law of any place outside Hong Kong;
- d) any insurer authorized under the Insurance Companies Ordinance (Cap. 41), or any other person carrying on insurance business and regulated under the law of any place outside Hong Kong;
- e) any scheme which –
  - i. is a collective investment scheme authorized under section 104 of this Ordinance; or
  - ii. is similarly constituted under the law of any place outside Hong Kong and, if it is regulated under the law of such place, is permitted to be operated under the law of such place,

or any person by whom any such scheme is operated;

- f) any registered scheme as defined in section 2(1) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485), or its constituent fund as defined in section 2 of the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A), or any person who, in relation to any such registered scheme, is an approved trustee or service provider as defined in section 2(1) of that Ordinance or who is an investment manager of any such registered scheme or constituent fund;
- g) any scheme which –
  - i. is a registered scheme as defined in section 2(1) of the Occupational Retirement Schemes Ordinance (Cap. 426); or
  - ii. is an offshore scheme as defined in section 2(1) of that Ordinance and, if it is regulated under the law of the place in which it is domiciled, is permitted to be operated under the law of such place,

or any person who, in relation to any such scheme, is an administrator as defined in section 2(1) of that Ordinance;

- h) any government (other than a municipal government authority), any institution which performs the functions of a central bank, or any multilateral agency; or
- i) except for the purposes of Schedule 5 to this Ordinance, any corporation which is –
  - i. a wholly owned subsidiary of –
    - A. an intermediary, or any other person carrying on the business of the provision of investment services and regulated under the law of any place outside Hong Kong; or
    - B. an authorized financial institution, or any bank which is not an authorized financial institution but is regulated under the law of any place outside Hong Kong;
  - ii. a holding company which holds all the issued share capital of-
    - A. an intermediary, or any other person carrying on the business of the provision of investment services and regulated under the law of any place outside Hong Kong; or
    - B. an authorized financial institution, or any bank which is not an authorized financial institution but is regulated under the law of any place outside Hong Kong; or
  - iii. any other wholly owned subsidiary of a holding company referred to in subparagraph (ii).