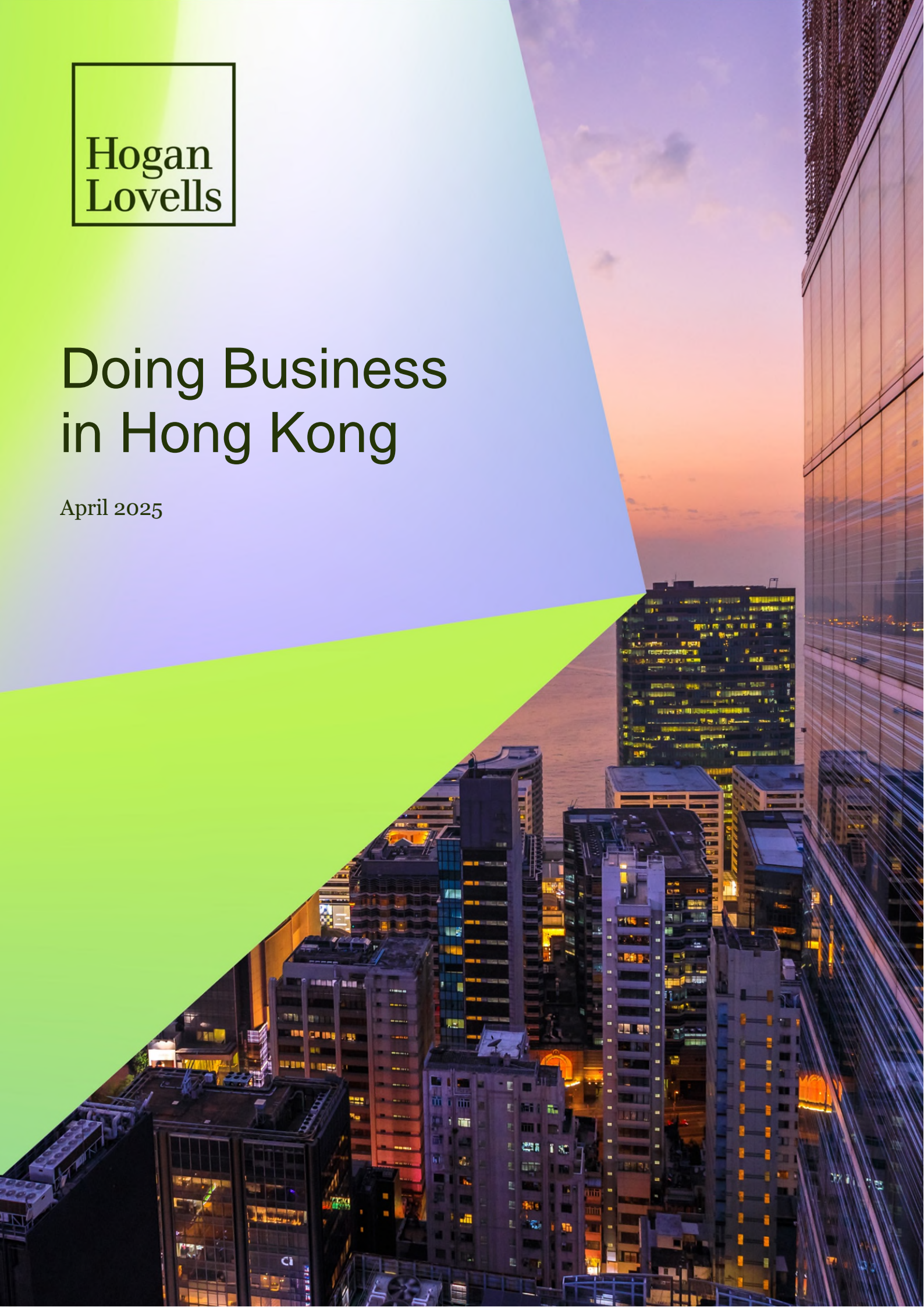




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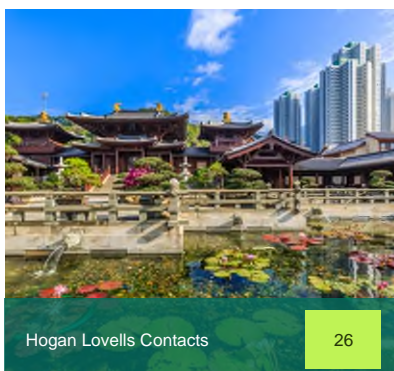
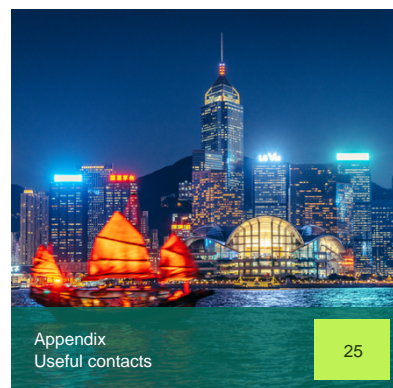
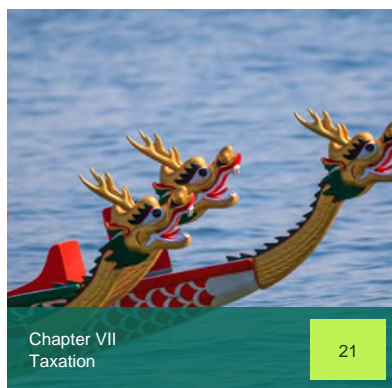
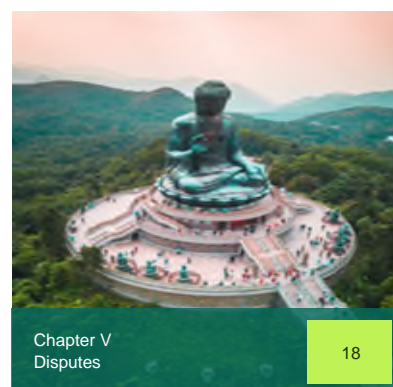
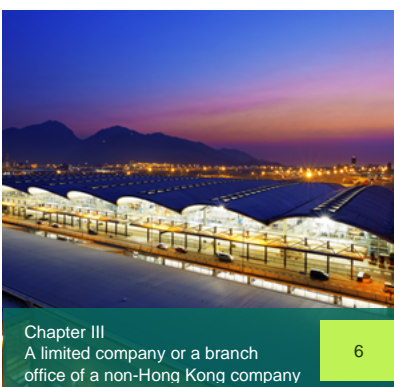
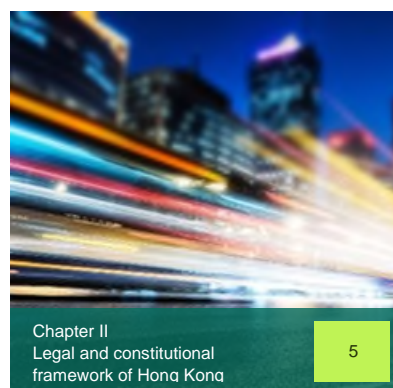
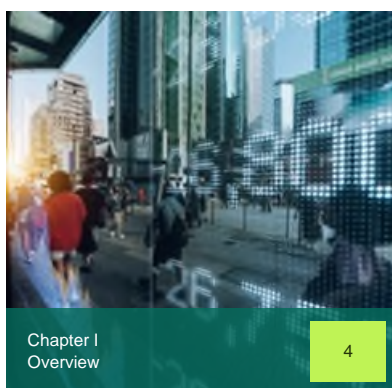
Doing Business in Hong Kong

April 2025



Doing Business in Hong Kong 2025

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Foreword

Hogan Lovells is one of the largest full service international law firms based in Hong Kong, providing our global clients with integrated legal advice on all aspects of doing business in the Asia-Pacific region.

Our Hong Kong office has more than 90 legal professionals, including 19 partners, offering strength and depth across the board. We have lawyers fluent in Chinese, English, Japanese, Vietnamese, French, German and a number of other Asian and European languages. We have an in-house team of Chinese and Japanese translators based in the region and have foreign language documentation capability.

Since establishment of the office in 1982, Hong Kong has acted as the hub around which Hogan Lovells' regional growth and network expansion have been organised. We are also the sole Hong Kong member of the Pacific Rim

Advisory Council (PRAC), a unique strategic alliance within the global legal community, consisting of over 20 major independent law firms, each with a substantial presence and expertise in the Pacific Rim region. We also have a number of Hong Kong qualified lawyers who have successfully obtained practicing licences in the Guangdong-Hong Kong-Macao Greater Bay Area ("GBA"), who can provide legal services relating to certain civil and commercial legal matters in the nine Mainland China cities within the GBA.

This guidebook provides an introduction to the basic legal framework for doing business in Hong Kong which we hope you will find helpful and informative. However, please note that the information contained in this guidebook is not intended to be, and should not be used as, a substitute for specific legal advice.

Owen Chan
Office Managing Partner, Hogan Lovells

Tommy Liu
Partner, Hogan Lovells

April 2025



Chapter I – Overview

Hong Kong maintains its traditional capitalist market economy. There is a straightforward framework for business, with an emphasis on free enterprise with a modest level of regulation. There are no nationality restrictions on corporate or sectorial ownership (except in the television and sound broadcasting sectors)¹. Apart from specific licensing and regulatory requirements for certain insurance, telecommunications, banking and securities-related services industries and professionals, companies and individuals can import and export capital and conduct business in Hong Kong within the law at their discretion. Work visas are required for non-Hong Kong persons to take up employment, and the Immigration Department has in place clear, well-established procedures for applying for and the processing of employment visas.

Hong Kong provides a favourable environment, for both domestic business and for conducting business throughout the Asia region. It has a flexible and experienced business culture as well as sophisticated financial, legal, accounting, trade and transportation infrastructure. The Hong Kong dollar is freely convertible. There are no exchange controls or foreign currency regulations (except those related to suspected terrorist financing and money laundering). Hong Kong is a free port for the vast majority of goods and the Hong Kong Government operates simple import and export rules, with only a limited number of goods requiring an import licence. Hong Kong does not impose any export taxes. There are no other barriers to trade – no tariffs, no quotas. The tax system is relatively simple. There is a low level of tax on profits and salaries, and there are no taxes on capital gains.

Hong Kong also has world class technological infrastructure and facilities, and the Hong Kong Government attaches great importance to promoting and nurturing research and development, with a number of research and development grants created in recent years to maintain its competitive edge.

Hong Kong is also known as a gateway for investments to and from China, with strong support from the Central People's Government in promoting business and trade through a number of measures, including the Closer Economic Partnership Agreement (“CEPA”), effective from 1 January 2004, which has gone through various iterations and allows for qualifying companies in Hong Kong to have preferential access to certain Mainland markets. CEPA is intended to support Hong Kong's role as a service centre for China and a bridge between China and the rest of the world, to promote joint economic prosperity in Hong Kong and China through strengthening trade and investment cooperation across industries. More recently, the GBA Outline Development Plan further reinforces Hong Kong's key role as a “core city” in the development of the GBA, an ambitious and exciting plan to strategically develop the area into a vibrant world-class city cluster with a globally influential technology hub, to further boost the city's economic competitiveness.

Hong Kong is now the largest global offshore Renminbi business hub, with the deepest and most liquid Renminbi market outside Mainland China, and with further development plans well underway. These initiatives and plans all underscore the importance of Hong Kong as a pivotal gateway for international businesses looking to engage with China as well as the broader region, ensuring its importance as a key financial and business centre in an increasingly interconnected world.



¹ [Hogan Lovells foreign direct investment \(FDI\) global legal guide results – Hong Kong](#)

Chapter II – Legal and constitutional framework of Hong Kong

On 1 July 1997, the People's Republic of China (“**PRC**”) resumed sovereignty over Hong Kong from Britain, with Hong Kong officially becoming the “Hong Kong Special Administrative Region of the PRC”. The Basic Law, implemented pursuant to the 1984 Sino-British Joint Declaration, was adopted by the PRC Government as Hong Kong's mini-constitution, and took effect on the resumption of sovereignty. It entrenches a separate government and legal system from the rest of the PRC and provides for the maintenance of all laws that were in force before the resumption of Chinese sovereignty (other than those that contravened the Basic Law). Hong Kong therefore maintains its English common law system.

The Basic Law provides that for a period of 50 years, Hong Kong will enjoy a high degree of autonomy, and its current political, social, commercial and legal system (including the common law and the capitalist economic and trade systems that have made Hong Kong an international business and financial centre) will remain intact.

The judicial system has remained largely unchanged since the handover, except that a Hong Kong Court of Final Appeal was established, in place of the former right of appeal to the British Privy Council. Hong Kong and Commonwealth Judges form the bench of the Court of Final Appeal.

The ownership of businesses and investments outside of Hong Kong is protected by law, as are the rights of individuals and legal persons such as companies to the acquisition, use, disposal and inheritance of property.

Taxation is levied and applied independently by the Hong Kong Government. The Basic Law requires that taxation must be levied with reference to the

low tax policy previously pursued in Hong Kong. The Hong Kong dollar continues to be legal tender and is freely convertible.

Under the Basic Law, a policy of free trade, including the maintenance of Hong Kong as a free port and free movement of goods, intangible assets and capital should continue. Residents have a right to international travel. Markets for foreign exchange, gold, securities and futures have continued to operate in broadly the same manner as before the handover. Property leases that extend beyond June 1997 continue to be recognised, and further grants of leases are made in accordance with Hong Kong law.

English and Chinese are the official languages. English is widely used by the executive authorities, the legislature, the judiciary as well as the legal, professional and business sectors in Hong Kong.

Hong Kong continues to provide a favourable environment for domestic and pan-Asia businesses.



Chapter III – A limited company or a branch office of a non-Hong Kong company

A. Introduction

The type and form of entity or presence adopted to carry on business in or with Hong Kong is, by and large, a matter of choice. If the business activity is limited to *trading with* Hong Kong, it may not be necessary to establish any local presence: a locally appointed agent may be able to adequately process the business on behalf of a foreign principal. However, where the appointment of a third-party agent is not appropriate to carry out the intended business activity, it will be necessary to have a local presence.

The most common form of business entity is a private limited liability company, which may either be a Hong Kong incorporated company which is a subsidiary of a foreign business, or a branch office of a company incorporated in a foreign jurisdiction (a “**Part 16 Company**” or a “**non-Hong Kong company**”) registered under Part 16 of the Hong Kong Companies Ordinance (the “**Companies Ordinance**”). There are other forms of business presence such as sole proprietorships, partnerships, limited partnerships and joint ventures available. Given that these are the most commonly adopted structures, this summary deals only with the legal framework for formation of a Hong Kong incorporated company or registration of a Part 16 Company.

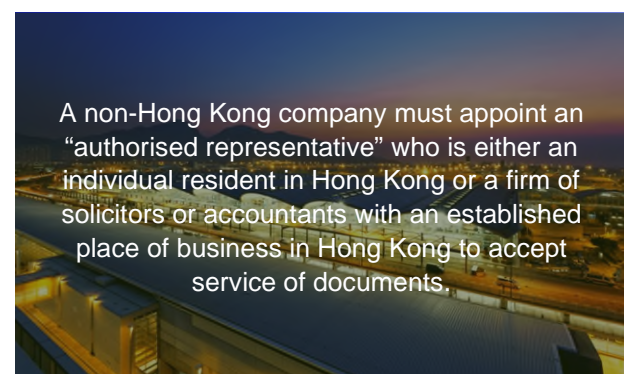
The decision whether to incorporate a Hong Kong subsidiary or to register a Part 16 Company may depend as much on factors outside of Hong Kong as those that distinguish the two types of entity in Hong Kong. The procedures for establishing these two types of vehicles are explained in further detail below. As discussed in Chapter VII headed “Taxation”, local taxation will be applied on the same basis to the operations of a subsidiary company as to a branch office. Problems relating to the allocation of profits of a foreign company to the operations of the local branch, and the practice of Hong Kong Inland Revenue Department (“**IRD**”) requiring profits returns to be supported by audited accounts, can be met in most cases by having the operations of a local branch separately audited. However, unless there are factors outside of Hong Kong leaning towards operating through a Part 16 Company, it may be more convenient to incorporate a subsidiary. A locally incorporated company will provide a well-defined governance and operational structure for the management and other operations of the company and so may simplify dealings with third parties in Hong Kong.

Under Hong Kong law, a parent company will not generally be liable for the debts or obligations of its subsidiaries, unless it has given a guarantee. The Hong Kong courts uphold the separate legal personality of a parent company. However, in exceptional circumstances (i.e. when the corporate structure is a sham), the courts will lift the “corporate veil” or find persons effectively exercising control over a company, known as a “shadow director”, responsible for the company’s debts.

B. Legal framework

The formation, operation and dissolution of Hong Kong incorporated companies, and registration and administration of Part 16 Companies, is largely governed by the Companies Ordinance, which was originally based on a former version of the UK Companies Act, but was comprehensively rewritten with effect from 3 March 2014.

All companies incorporated in Hong Kong and non-Hong Kong companies (i.e. Part 16 Companies) intending to carry on business in Hong Kong must be registered with the Companies Registry. They are also required to file returns with the Companies Registry on changes to its registered particulars, and to file an Annual Return setting out their shareholding structure, directors and certain other matters. Details of charges given by a Hong Kong company or a Part 16 Company over its property must also be filed.



A non-Hong Kong company (Part 16 Company) is required to comply with equivalent registration procedures to those described below. Hong Kong law may apply to matters, such as directors' liabilities for financing or other defaults in Hong Kong, but matters such as the issue of shares and restrictions on the rights attaching to shares, will, in general, be subject to the laws of the jurisdiction in which the non-Hong Kong company is incorporated.

C. Incorporation of limited companies

1. Types of limited company

There are two main types of limited liability company in Hong Kong, a "private" company and a "public" company.

It is also possible to incorporate a company limited by guarantee. These are primarily for non-profit organisations. As these types of companies are relatively rare and do not usually have a share capital or shareholders, they are not dealt with in this summary.

A private company limited by shares ("**private company**") is subject to fewer compliance requirements than a public company: there is no requirement to file audited accounts with the Companies Registry (although it must still file an Annual Return) and, subject to a number of exceptions, certain requirements as to the contents of accounts may be waived by members.

A private company is one whose Articles of Association ("**Articles**"):

- restrict the right to transfer shares;
- limit the number of its members to 50 (subject to special provisions regarding employees' shares); and
- prohibit any invitation to the public to subscribe for any shares or debentures of the company.

Unless the intention is to offer shares or debentures to the public upon incorporation and/or to apply for a listing of such shares on the Hong Kong Stock Exchange, it would be appropriate to incorporate a private company.

2. Incorporation procedures

Many foreign companies choose to incorporate a local subsidiary in the form of a private company limited by shares. The incorporation procedures and post-incorporation obligations of a private company are dealt with in this Chapter. Issues relating to employment and taxation are set out in Chapters IV and VII respectively.

a) Articles of Association

The main constitutional document of a private company is the Articles. The requirement for a Memorandum was abolished in the 2014 revision of the Companies Ordinance.

The Articles set out the company's name, share capital details and a statement that the liability of its members is limited. The Articles also set out the internal regulations of the private company as regards the dealings between the company and its shareholders, covering matters such as the rights attaching to and transferability of shares, convening and conduct of shareholders' meetings, powers, duties and operation of the board of directors and proceedings at board meetings, procedure for declaring dividends, as well as other matters.

Hong Kong companies may adopt "Model" Articles set out in the subsidiary legislation to the Companies Ordinance in whole or in part, which provides a model form. In some cases, it may be more appropriate to adopt Articles tailored to the specific circumstances of the company (for example a joint venture company or a company with different share classes or types).

To incorporate a private company, the Articles must be filed with the Registrar of Companies (the "**Registrar**"), along with a completed prescribed incorporation form signed by a founder member named in the form. It is also possible to have single shareholder companies. The Articles take statutory effect as a contract under seal between the private company and each member on the one hand and between a member and each other member on the other. It is deemed to contain covenants on the part of the private company and of each member to observe all the provisions of the Articles.

b) Company name

Unless exempted by the Registrar, the name of a private company must end with the word "limited", and must not be identical to or too similar to the name of any other company registered in Hong Kong. Certain words, such as "trust" or "chamber of commerce", may not be used in a company name without the Registrar's prior approval. The Registrar has the power, within 12 months of the date on which such a name was adopted, to direct the company to change its name within such period as specified. This direction may also be given where the Registrar believes that the name under which the company has been registered gives so misleading an indication of the nature of its activities as to be likely to cause harm to the public.

A company must also display its name in legible characters at its registered office and in every place of business, and on its communication documents

(e.g., any business letter or company letterhead), transaction instruments and websites.

c) Registered office

A company must maintain a registered office in Hong Kong for service of process and other documents. The registered office may be changed from time to time on giving notice to the Companies Registry.

d) Share capital

A private company has to have a share capital of some monetary amount. There is no prescribed minimum or maximum share capital nor is there a limit restricting the maximum number of shares that can be issued (although a company can choose to place a restriction on the number of shares it can issue). Each founder member must subscribe for at least one share.

All shares issued before on or after the commencement date of the new Companies Ordinance, which came into effect on 3 March 2014, have no par value (or are deemed to have no par value). There is no need for a conversion price for those shares issued prior to such date.

e) Shareholders, directors and secretary

While the shareholders of a Hong Kong company may be individuals or companies, there are restrictions on corporate directorship. Private companies are required to have at least one natural person director, and corporate directors are not permitted in the case of a company which is a member of a group of companies, one of which is listed on the Hong Kong Stock Exchange. Directors are not required to be resident in Hong Kong and can be foreign nationals. Individual directors must be over 18 years of age. There are no restrictions on foreign shareholders, apart from restrictions that apply generally to foreign control over certain types of companies in the broadcasting industry, such as television programme service licensees and sound broadcasting licensees.

The Companies Ordinance allows private companies to have a single shareholder and single director. The sole shareholder of a private company may also be the sole director.

However, a company must have a secretary who is either an individual resident in Hong Kong or a body incorporate with a registered office or place of business in Hong Kong. One of the directors may be the secretary, although the sole director of a private company cannot also be the secretary of the company.

f) Directors' duties

Normally, as per the Articles, the day-to-day management of the company's business will be

carried on by the directors. Directors have general duties under common law to the company, most notably to act in its best interests and under the Companies Ordinance, the directors have a statutory duty to exercise reasonable care, skill and diligence. They owe fiduciary duties to the company.

In addition to statutory duties, the Companies Ordinance imposes various duties on directors of private companies, for example: to ensure that the requirements of the Companies Ordinance are complied with, to ensure that returns are filed, to ensure that an Annual General Meeting is held within the required period, and to ensure that books of account are properly kept.

A director may be personally liable if it is shown that he was associated in some way with the company's default in complying with requirements of the Companies Ordinance. Directors also face personal liability for breach of duties owed to the company under statute, common law or equity.

g) Certificate of incorporation

The time required to incorporate a company varies according to the workload of the Companies Registry. For paper applications, it usually takes four working days from the filing of the incorporation documents until the issue of the Certificate of Incorporation. An online incorporation service is also available, which normally takes one hour to process applications.

The Certificate of Incorporation is conclusive evidence of the due incorporation and the date of establishment of a company and entitles a company to commence business immediately.

It is also common in Hong Kong to purchase a pre-incorporated "shelf company" from an incorporation agent.



3. Post-incorporation matters

a) Business registration

Every business carrying on in Hong Kong, whether by an individual, partnership or company, is required to register with the IRD in accordance with the Business Registration Ordinance. Companies incorporated in Hong Kong are required to apply for registration within one month of commencement of business whether or not they are then trading (i.e. including dormant companies). Since February 2011, a one-stop company incorporation and business registration service has been implemented so that any application to incorporate a company under the Companies Ordinance will be deemed to have made a simultaneous application for a business registration. This applies to both on-line and paper applications.

The application for registration is straightforward and covers the name or names under which, and the places where, the business is carried on, together with a description of the nature of the business. A business registration fee and levy are normally payable on application and renewal. Registration is for IRD administration purposes, but the registered particulars are open for public inspection.

The Business Registration Certificate shall be displayed in a conspicuous place at every address at which business is carried on in Hong Kong. Where there are branch offices, branch certificates will be issued for a further fee. Certificates are required to be renewed each year for a one-year certificate, or every three years, for a three-year certificate. Other persons may also request to see the Business Registration Certificate in order to ensure they are dealing with a business operating in Hong Kong.

Other issues and steps to consider after the business is registered include:

- setting up bank accounts, which may take some time to complete due to the banks' standard "know your customer" or similar identification procedures. As part of the account opening process, it is usual for banks to require production of, among other things, a valid Business Registration Certificate before they will open bank accounts on behalf of a company or branch office. Please refer to the Hong Kong Monetary Authority website for further general information regarding bank account opening and maintenance requirements: (<https://www.hkma.gov.hk/eng/smart-consumers/account-opening/>).
- considering and identifying a location for office and acquiring or leasing office space. We have a real estate team that specialises in real estate

assets and property-related matters, including reviewing and advising on lease agreements.

- certain types of business may require additional licences and permits. For more information, please visit the website of Business Licence Information Services of the Trade and Industry Department (<https://www.success.tid.gov.hk/tid/eng/blics/index.jsp>).
- determining the initial working capital and debt funding requirements (if any). In the event the company requires debt financing, the Articles should be reviewed to ensure that its borrowing powers are not restricted. Generally speaking, the Articles of a Hong Kong company incorporated after the 2014 revision of the Companies Ordinance are unlikely to contain an objects provision in which case the Hong Kong company "*has the capacity, rights, powers and privileges of a natural person of full age*" (section 115(1) of the Companies Ordinance), including the right to borrow.
- taking out insurance policies, including property all risks, public liability and employees' compensation, and business interruption insurance.

b) Functioning before incorporation

Although a company does not exist under Hong Kong law before the Certificate of Incorporation is issued by the Registrar, the Companies Ordinance provides that subject to any express contrary agreement, a contract which purports to be made by or on behalf of a company before incorporation shall be effective as a contract of the person who purported to act on the company's behalf and such person will be personally liable on the contract. The pre-incorporation contract can be adopted by a company after its incorporation by ratification, and it can also be transferred to a company by novation – a new agreement replacing the original whereby the other contracting party agrees to deal with the company in substitution for the person who made the original contract.

c) Continuing obligations for Hong Kong companies

Important continuing obligations of companies incorporated in Hong Kong are listed below:

- **Annual General Meeting:** a private company or a company limited by guarantee is required to hold an Annual General Meeting within nine months after the end of its accounting reference period (i.e. its financial year); in the case of any other company (such as a public company), within six months after the end of its accounting reference period. If the accounting reference period is the first accounting reference period of

the company and is longer than 12 months, the company must hold its first annual general meeting within the following period:

- In the case of a private company or a company limited by guarantee:
 - i) nine months after the anniversary of the company's incorporation; or
 - ii) three months after the end of that accounting reference period, whichever is later.
- In the case of any other company (such as a public company):
 - i) six months after the anniversary of the company's incorporation; or
 - ii) three months after the end of that accounting reference period, whichever is later.

The Companies Ordinance allows a company to dispense with the holding of an Annual General Meeting by passing a written resolution or a resolution at a general meeting by all members. A single member company is not required to hold an Annual General Meeting at all.

- **Annual Return (containing prescribed information in relation to the directors, secretary and shareholders of the Company):** to file an Annual Return with the Companies Registry within 42 days of the date specified in the return – for a private company, the information in the Annual Return should be made up to the anniversary of the date of its incorporation (or in the case of a public company, the Annual Return should be made up to the date that is six months after the end of its accounting reference period).
- **Audited accounts:** to prepare audited accounts and lay them before the company in general meeting. Unless the company is a private company, a copy of the accounts must be filed with the Companies Registry. The new Companies Ordinance has relaxed the criteria for companies to prepare simplified financial reports and directors' reports such that private companies or companies limited by guarantee that meet certain size criteria are exempted from certain specific requirements relating to the preparation of financial statements, directors' and auditor's reports. Certain types of companies may be able to benefit from simplified financial reporting.
- **Reporting requirements:** to make timely filings when there are changes to its registered details, including a change in company name, registered office, secretary or directors, changes to its

Articles, any increase, redemption or reduction of share capital, any subsequent allotment of shares, the granting of an encumbrance over assets and all special resolutions (except in relation to change of name) as well as certain ordinary resolutions passed by the company.

- **Employer's Return:** to make a return containing details of employees and their remuneration.
- **Profits Tax Return:** to make a Profits Tax Return, normally on the basis of audited accounts showing the profits tax payable for the financial period ended in the year of assessment.
- **Special resolutions:** copies of all special resolutions (except in relation to change of name) passed are to be filed with the Companies Registry.
- **Statutory Books:** in addition to its books of account, to keep its statutory books, the most important of which are the register of members, the register of directors and secretary, the register of charges and the minute books for minutes of directors' and shareholders' meetings. These statutory books must be kept at the registered office of the company except in certain circumstances where the work carried out to make them up is carried on elsewhere or where someone else is instructed to make them up. However, they must not be kept outside of Hong Kong.
- **Significant Controllers Register**

Hong Kong companies are required to keep and maintain a significant controllers register which is similar to other jurisdictions where there is a requirement to disclose ultimate beneficial owners. This is intended to increase the transparency of corporate ownership and reduce money-laundering risks. All applicable companies are required to take steps to identify its significant controllers, record and update details, nominate a "designated representative" to help with compliance and keep the register at the company's registered office or prescribed place. There are five circumstances identifying whether a person or entity has significant control:

 - **Shareholding:** the person holds, directly or indirectly, (i) more than 25% of the issued shares in the company (if the company has a share capital) or (ii) a right or rights to share in more than 25% of the capital or profit (if the company does not have a share capital).
 - **Voting:** the person holds, directly or indirectly, more than 25% of the voting rights in the company.
 - **Right to appoint or remove:** the person holds, directly or indirectly, the right to

appoint or remove a majority of the board of directors of the company.

- **Significant influence (company):** the person has the right to exercise, or actually exercises, significant influence or control over the company.
- **Significant influence (trust/firm):** the person has the right to exercise, or actually exercises, significant influence or control over the activities of a trust or firm (i) that is not a legal person and (ii) whose trustees or members meet one or more of the conditions specified above.

d) Change of name

A private company can pass a special resolution of shareholders to approve a change of name and then file a notice of change of name with the Companies Registry within 15 days of passing the special resolution to adopt the new name. The new name has to comply with similar restrictions as on incorporation. The Registrar will issue a Certificate of Change of Name, usually within four working days of the filing of the notice of change.

e) Amendments to the Articles

A private company is allowed to amend any provisions in its Articles subject to certain restrictions. Procedures for such amendment are the same as those for a change of name. Subject to the provisions of its Articles, a private company may alter its share capital in the following manner:

- increase its share capital by allotting and issuing new shares;
- increase its share capital without allotting and issuing new shares, if the funds or other assets for the increase are provided by the existing members of the company;
- capitalise its profits, with or without allotting and issuing new shares;
- allot and issue bonus shares with or without increasing its share capital;
- consolidate or convert all or any of its shares into a larger or smaller number of shares; or
- cancel shares which have not been taken or agreed to be taken by any person or that have been forfeited.

A notice in the specified form has to be filed with the Companies Registry within one month after the date on which the alteration takes effect.

D. Registration of a branch office of a non-Hong Kong company (Part 16 Company)

A company incorporated outside Hong Kong that wishes to carry out activities in Hong Kong to

create binding legal obligations must apply for registration with the Companies Registry as a Part 16 Company within one month of establishing a place of business in Hong Kong.

1. Registration procedures

a) Documents for registration of a Part 16 Company

- a specified registration form;
- a certified copy of the charter, statutes or memorandum (including Articles, if any) of the company or other instrument defining the constitution of the company. If the original document is not in English or Chinese, only a certified translation of the document into either of these languages needs to be filed;
- a certified copy of the Certificate of Incorporation of the company (together with any certificates of incorporation on change of name) including a certified translation in English or Chinese, if not produced initially in either of these languages;
- a certified copy of the latest published accounts of the company (if any). If the accounts are not written in English or Chinese, a certified translation in English or Chinese should be filed in lieu of the certified copy of the accounts in the original language; and
- a specified business registration form.

b) Appointment of authorised representative

A non-Hong Kong company must appoint an “authorised representative” who is either an individual resident in Hong Kong or a firm of solicitors or accountants with an established place of business in Hong Kong to accept service of documents on the company’s behalf.

2. Post-registration matters

a) Business registration

Similar to companies incorporated in Hong Kong, non-Hong Kong companies are required to renew these business registration certificate each year for a one-year certificate, or every three years, for a three-year certificate .

b) Annual return

Every Part 16 Company must, within 42 days of the date specified in the return, deliver to the Registrar for registration an Annual Return together with a certified copy of its latest published accounts, if any. If the accounts are not written in English or Chinese language, a certified English or Chinese translation has to be filed. For a Part 16 Company, the information in the Annual Return should be made up to the anniversary of the date of its registration.

c) Continuing obligations

Important continuing obligations of Part 16 Companies in Hong Kong are listed below:

- Reporting requirements: to make timely filings when there are changes to the registered details of the Part 16 Company, including a change in company name, details of its directors or secretary, its Memorandum and Articles or equivalent constitutional documents, names or addresses of the authorised representative, address of the company's principal place of business in Hong Kong or of its registered office or of its principal place of business in the place of its incorporation, the creation of encumbrances over its assets in Hong Kong;
- Employer's Return: to file a return containing details of employees and their remuneration; and
- Profits Tax Return: to file a Profits Tax Return with the IRD, normally on the basis of audited accounts showing the profits tax payable for the financial period ended in the year of assessment.

E. Execution formalities

a) General overview

In Hong Kong, the valid execution of documents can be accomplished through traditional wet ink signatures or, subject to the provisions of the Electronic Transactions Ordinance ("ETO"), by electronic signature. Contracts take one of two legal forms: simple agreements or deeds and they have different requirements.

b) Simple agreements

When an agreement or contract is signed under hand, this means that an individual has placed his signature or marker on the document. If the agreement or contract which is signed under hand involves a company, this means that it is signed by an individual who is authorised by the company.

c) Deeds

Deeds are normally used to satisfy a statutory requirement, for example, in relation to agreements involving land, powers of attorney, a document creating a binding obligation (such as a covenant) or contracts that are not supported by consideration.

A deed must be in writing and it must be clear on the face of it that it is intended to be a deed, and it must be signed, sealed and delivered. For Hong Kong incorporated companies, a document (including a deed) may be executed as follows:

- (i) by affixing its common seal in accordance with the requirements set out in its Articles;
- (ii) in the case of a company with only one director, by having it signed by the sole director on the company's behalf; or
- (iii) in the case of a company with two or more directors, by having it signed on the company's behalf by (i) two directors, or (i) any one of the directors and the company secretary.

In theory, it is possible for a company to execute a deed electronically through the methods stated in (ii) and (iii) above, but this has not been tested in the Hong Kong courts. As at the date of publication of this guidebook, there is no guidance issued by the Hong Kong Government or the Law Society of Hong Kong on this point. Furthermore, while virtual signings for corporate and banking transactions are common place in Hong Kong, market preference, particularly for transactions involving deeds, is still to rely on wet-ink signatures which are then circulated in PDF form.

The rules for execution of deeds by non-Hong Kong companies are different from those for Hong Kong incorporated companies and complex: specific advice should be sought.

d) Electronic signatures

For simple agreements or contracts, there are no Hong Kong legal requirements as to format or form of signature, and so long as the type of agreement is not excluded from the ETO, then an e-signature can be used.

However, there are specific rules regarding electronic signatures when dealing with a government entity which requires use of a digital signature.

For transactions **not** involving a government entity, a signature requirement under law can be met by any form of electronic signature so long as:

- the e-signature is attached to or logically associated with the electronic message;
- it is reliable and appropriate; and
- it is agreed by the recipient of the signature.

For documents **involving** a government entity, then an electronic signature may not be used and for it to be enforceable, a digital signature must be:

- supported by a recognised certificate issued by a recognised certification authority;
- generated within the validity of the recognised certificate; and

- used in accordance with the terms of the certificate.

The ETO sets out the documents that cannot be signed electronically and types of proceedings where electronic signatures cannot be used. These include testamentary documents, certain types of trusts, powers of attorney, documents concerning land and property transactions, negotiable instruments, court orders or judgments, warrants issued by a court or a magistrate, oaths and affidavits and statutory declarations.

e) Notarisation and legalisation

The act of notarisation is to evidence the authenticity of signatures and seals, typically required for legal documents to be used overseas.

Hong Kong is a signatory to the 1961 Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (“**Hague Convention**”), so a document authenticated and certified by a notary public in Hong Kong will be accepted by the signatories to that convention.

For countries that are not part of the Hague Convention, it will be necessary for the relevant documents to be legalised by the relevant country’s embassy before they can be used in that country.

For documents issued in Hong Kong and to be used in Mainland China, they are required to be attested by a China-Appointed Attesting Officer (“**CAAO**”) to ensure their legal validity and recognition in China. CAAOs are Hong Kong qualified lawyers appointed by the Ministry of Justice of China after passing the prescribed examinations, who are authorised to attest documents for use in Mainland China.

Navigating the complexities of execution formalities, especially across multiple jurisdictions, can be challenging. Our teams possess the technical expertise to guide you through the intricacies of execution compliance, whether locally or internationally.



Chapter IV – Employment

Basic rights and protections for employees are prescribed by the Employment Ordinance (the “**Employment Ordinance**”). They make no distinction between locals and foreign nationals working in Hong Kong. The statutory provisions are (mostly) mandatory and govern all employment contracts and obligations (with a few exceptions) that are to be performed wholly or substantially in Hong Kong. Other rights may apply by virtue of the terms of the employment contract.

There is no legal requirement for a Hong Kong employment contract to be made in writing. However, where a contract of employment for a fixed term which exceeds one month is not in writing, such contract will be treated as a one-month contract, renewable on a monthly basis (terminable on notice). An employer who does not wish to enter into a written employment contract with its employees is under a statutory duty to give an employee a written statement containing the major terms of employment upon request.

Terms of the employment relationship may also be implied by custom, the common law or equity. For example, employees owe an implied duty of fidelity and good faith to their employers, under which they may not compete with or breach the confidentiality of their employers.

F. Scope of the Employment Ordinance

The Employment Ordinance applies generally to all contracts of employment in Hong Kong. It provides a range of statutory controls, including measures for the duration and termination of contracts, the payment of wages and severance pay and days off. Whether any or all of these provisions apply to a given employee will generally depend upon whether the employee has a “continuous contract”, and the period for which he has been employed under that contract. The statutory meaning of “continuous contract” is complicated, but is based upon the concept of an employee working for 18 hours or more in each of the four weeks preceding the relevant time it is measured. The employment of young persons in industrial settings is specifically regulated.

Employers and employees generally cannot contract out of the provisions of the Employment Ordinance.

Contracts for services with independent contractors do not fall within the ambit of the Employment Ordinance.

In 2024, the Government proposed that the definition of “continuous contract” be relaxed to cover any employee who has worked for at least 68 working hours for the same employer in four consecutive weeks. The proposal is yet to come

into effect, with the proposed amendments to the Employment Ordinance to be tabled at Hong Kong’s Legislative Council for consideration.

G. Wages

The Minimum Wage Ordinance, which came into force on 1 May 2011, provides a statutory minimum wage to protect grassroots employees. The minimum wage applies to all full-time, part-time or casual employees, whether or not they are employed under a “continuous contract”. As at March 2024, the minimum wage was increased to HK\$40.00 per hour and this will be further increased to HK\$42.10 per hour from 1 May 2025.

However, foreign domestic helpers, student interns and work experience students are expressly excluded from its scope.

Wages must be paid in legal tender, unless the employee consents to a bank transfer or other forms of payment prescribed under the Employment Ordinance. The employer is entitled to make deductions from wages only in certain circumstances (e.g. deductions for absence from work, recovery from an advance or overpayment of wages or other than in cases where the employer knows that the employment is to terminate and the employee is to leave Hong Kong, in which case the IRD will require the employer to withhold payment until the IRD is satisfied that the employee has paid all outstanding taxes). This is an exception to the general principle that wages are paid without deduction on account of tax to employees.

It is common in Hong Kong for employees to be given a “Chinese New Year” or an “end of year payment” which in effect is an annual bonus, frequently equivalent to one month’s wages, generally paid at the lunar new year. Employers may “contract out” of this obligation, but in the case of lower paid employees, doing so would be the exception rather than the norm.

H. Mandatory provident fund, insurance

With limited exceptions, employees are required to make statutory contributions to a retirement fund scheme that is registered as a mandatory provident fund scheme for employees under the Mandatory Provident Fund Schemes Ordinance. Both the employer and the employee must make 5% contributions on the employee’s relevant income, unless an employee earns less than HK\$7,100 a month (in which case only the employer has to contribute 5%). Employer and employee mandatory contribution are capped at HK\$1,500 each per month, but voluntary payments in excess of this can be made by either party. The employee may only withdraw funds before retirement under

limited circumstances, such as total incapacity or terminal illness.

Under the Employees' Compensation Ordinance, employers are also required to maintain statutory workers' compensation insurance coverage for work-related injuries. The amount of cover is at least HK\$100 million (US\$12.8 million) per event for employers with not more than 200 employees and at least HK\$200 million (US\$25.6 million) per event for employers with more than 200 employees. There is no statutory requirement to provide medical benefits (beyond limited sick pay) or pay public or private medical insurance for illness or other disabilities affecting employees.

I. Working week

The generally applicable statutory limit imposed on working hours or days is that every employee who works under a continuous contract must be given at least one rest day in every period of seven days. There is no statutory limit on the maximum number of working hours for an employee. Although many employers in Hong Kong still adopt a five-and-a-half-day working week, with the half-day falling on Saturday, there is a rising trend for employers to shift to a five-day working week. It is common for Hong Kong employment contracts to stipulate that employees are required to work overtime as and when required.

J. Rest days / Paid leave

An employee is entitled to one rest day in every seven days, the specific day of the week to be set by the employer. After three months of service, all Hong Kong employees who work under a continuous contract are entitled to 14 paid statutory holidays in every year. Such employees are also entitled by statute to between 7 and 14 days annual leave (or payment in lieu), according to a progressive scale based on years of service.

K. Sickness leave and allowance

Persons employed under a continuous contract are, after one month, entitled to a sickness allowance, according to their length of service, of two paid sickness days for each completed month of service during the first 12 months of continuous employment and four paid sickness days for each such month subsequently, up to a maximum of 120 paid sickness days. The minimum allowance for paid sick leave is four-fifths of an employee's average monthly wages over the preceding 12 months.

L. Maternity and paternity

A woman employed under a continuous contract is entitled to maternity leave if she gives the prescribed notice. In December 2020, Hong Kong extended its statutory maternity leave for female

employees from 10 weeks to 14 weeks. Leave begins two to four weeks before the expected date of delivery, and may continue until the end of the tenth or twelfth week after the expected date of delivery (the maximum basic leave period being fourteen weeks) and up to a further four weeks on grounds of illness or disability arising from the pregnancy. Where an employee has worked continuously for her employer for more than 40 weeks, the employee is entitled to receive four-fifths of her average monthly wages for:

- the first 10 weeks of her maternity leave (the amount is uncapped); and
- the last four weeks of her maternity leave (capped at HK\$80,000).

The maternity leave taken will not break her continuity of employment.

Hong Kong's statutory paternity leave provisions also grant new fathers the right to take five days' paid leave following the birth of each child. The leave may be taken consecutively or separately, and at any time during the period from four weeks before the expected date of delivery of the child to 14 weeks from the actual date of delivery. The employee is entitled to receive a daily rate of four-fifths of his average wages. Obviously, it is open to employers to provide benefits exceeding the statutory minimum.

M. Termination of employment

Most contracts of employment may be terminated unilaterally by either the employer or employee giving the requisite period of notice of termination to the other or by payment of wages in lieu. The notice period for termination of an employment contract is freely negotiable, subject to the following rules:

- a fixed-term contract for more than a one month period may be terminable before its expiry on the expressly agreed notice period, which must not be less than seven days;
- a continuous contract which has lasted for one month may be terminated on not less than one month's notice or the agreed period of not less than seven days; and
- in the case of all other continuous contracts, not less than seven days' notice must be given to terminate other continuous contracts.

An employer can summarily dismiss an employee without notice or payment in lieu of notice for wilful misconduct or serious breach of the employment contract. Equally, an employee may leave without prior notice if his employer is in serious breach of the contract; in effect, the employee may treat himself as having been "constructively dismissed" by the employer.

Employees who have been unreasonably or unlawfully dismissed are entitled to seek financial compensation, while either reinstatement or re-engagement (that is re-employment in another position) may be ordered in special cases. The amount of compensation payable will be equivalent to the payment in lieu of notice that would have been payable if the employment contract had been lawfully terminated by payment in lieu of notice together with any statutory termination payment.

N. Redundancy

Employees who have been employed under a continuous contract for at least 24 months under a continuous contract of employment are entitled to a severance payment in the event of redundancy or being laid off (that is, where the employee's remuneration depends on being provided with a particular kind of work, and the amount of this work cannot be sustained). Such employees activity may also be entitled to receive other sums payable on termination. Severance payments are calculated with reference to two-thirds of (i) the employee's last full month's wages or the average of the employee's wages in the last 12 months, at the employee's option or (ii) HK\$22,500, whichever is the less, multiplied by the years of service, up to a maximum of HK\$390,000.

O. Long service payments

An employee who has been employed under a continuous contract for no less than five years and is dismissed (other than for his own wrong-doing or by way of redundancy), or who gives notice to terminate his employment on the grounds of ill health or retirement after the age of 65, will be entitled to a long service payment. The amount of long service pay is calculated according to the employee's existing monthly pay multiplied by the relevant years of service at the same level as a severance payment on redundancy. Any amounts paid in respect of a gratuity based on length of service and/or the employer's contributions to any retirement scheme or mandatory provident fund scheme may be set off against a long service payment, but such right will terminate with effect from 1 May 2025.

P. Non-resident employees: Immigration to Hong Kong

A work permit is required for all non-residents who wish to take up employment in Hong Kong.

Applicants are required to complete prescribed forms and produce evidence of their employment offer and qualifications. Applications for work permits can be submitted through the PRC Embassy, diplomatic or consular mission nearest the applicant's place of business. It will, however, generally save time if the Hong Kong employer

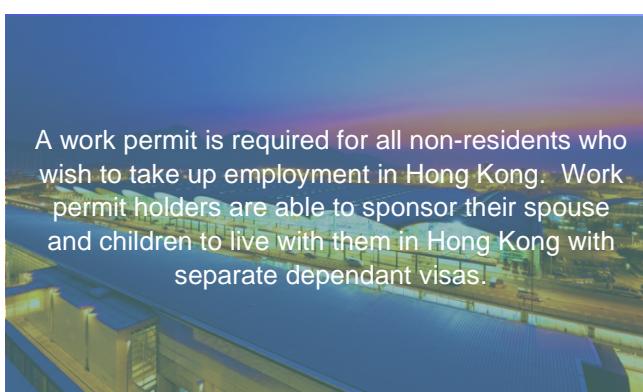
submits the application directly to the Immigration Department in Hong Kong explaining why the particular skill sets are needed and that they cannot be obtained from the local labour force. Once all of the requisite documents have been submitted, the processing time is normally between four to six weeks. The work permit will initially be granted for two years, but can be extended provided the permit holder continues to be employed with the same employer, or has arranged a substitute employer with approval of the Immigration Department. The Government fee for processing and issuing the work permit is currently HK\$230.

Work permit holders are able to sponsor their spouse and any children to live with them in Hong Kong under separate dependants visas.

Q. Trade association background

In the private "white collar" sector, there is generally little in the way of collective bargaining activity. Trade unions are legally recognised and must be registered. Employees have a statutory right to be a member of a trade union, and must not be discriminated against as a result of that membership. Collective bargaining agreements are relatively uncommon in the private sector in Hong Kong. Outside such collective agreement, employees do not have rights to management representation, or to be consulted regarding corporate transactions.

There are various employers' organisations, including the General Chamber of Commerce, the Employers' Federation of Hong Kong and the Federation of Hong Kong Industries.



A work permit is required for all non-residents who wish to take up employment in Hong Kong. Work permit holders are able to sponsor their spouse and children to live with them in Hong Kong with separate dependant visas.

Chapter V – Disputes

As described above, the legal system in Hong Kong is a common law system (Hong Kong is the only common law jurisdiction in People's Republic of China), with a split profession comprising solicitors and barristers, similar to the split profession of England & Wales, and an independent judiciary.

The independence of Hong Kong's judiciary is enshrined under the Basic Law. The Courts follow the doctrine of precedents by which a lower Court is bound to follow the ratio decidendi of a judgment by a superior Court and decisions become part of the common law of Hong Kong. Upon the resumption of the exercise of sovereignty over Hong Kong by the People's Republic of China in 1997, the source of common law available to Hong Kong is no longer limited to English Court decisions as the Basic Law provides that Hong Kong Courts may refer to precedents of other common law jurisdictions. Hong Kong adopts a system of open justice. Subject to the Court's directions or orders otherwise, Court decisions are generally made public and accessible online via the Hong Kong Judiciary's website at https://www.judiciary.hk/en/judgments_legal_reference/judgments.html.

Civil proceedings in Hong Kong may be brought against an individual, a corporation or the government on private law grounds, and against the government by way of judicial review on public law grounds to challenge the constitutionality of a piece of legislation or any statutory provision or the legality of any act, decision or policy of the government. There are three traditional grounds for judicial review; namely, (a) illegality; (b) irrationality; and (c) procedural impropriety. If an applicant succeeds in his application for judicial review, the Court has the discretionary power to grant a form of final relief appropriate to the circumstances, including an order of mandamus (to perform an act), prohibition or certiorari (to bring up and quash a decision), an injunction, a declaration (as to legal rights) or an award of damages, as the case may be.

Private law applies to civil proceedings brought against an individual, a corporation or the government in matters concerning rights under the law of contract, tort, property, etc. Private law remedies generally available include:

- Damages
- Injunctive relief (including freezing (Mareva) injunctions, prohibitory injunctions and mandatory injunctions);
- Specific performance;
- Declaratory relief; and
- Orders for an account of profits, tracing and recovery of property, restitution of property, etc.

Civil procedure is mostly governed by legislation including the High Court Ordinance and Rules of the High Court and the District Court Ordinance and Rules of the District Court. The underlying objectives of the Court Rules, as amended, are to increase the cost-effectiveness of court practices and procedures, to ensure expeditious case disposal, to promote a sense of reasonable proportion and procedural economy in the conduct of proceedings, and to facilitate settlement of disputes, etc. The Courts are obliged to manage cases actively. Active judicial case management includes:

- encouraging the parties to cooperate in the conduct of the proceedings;
- identifying the issues at an early stage;
- encouraging the parties to resort to alternative dispute resolution if the Court considers it appropriate; and
- keeping the parties' need to attend the Court to a minimum.

Hong Kong adopts the "loser pays" system in litigation. While costs can be awarded at any stage of the proceedings, usually costs are awarded to the winner at the conclusion of the matter. In reality, the winning party will likely recover between 40% to 65% of the actual costs incurred after taxation (costs assessment).



A. International Arbitration

Hong Kong is one of the three most-preferred seats in the world, with a pro-arbitration judiciary and a modern and sophisticated legislative framework, including legislation dedicated to the support and promotion of arbitration, the Arbitration Ordinance.

The Hong Kong International Arbitration Centre (“HKIAC”) is one of the world’s leading dispute resolution organisations, specialising in arbitration, mediation, adjudication and domain name dispute resolution. HKIAC’s various rules and procedures can be found here

<https://www.hkiac.org/arbitration/rules-practice-notes>.

A further advantage of Hong Kong as a venue for arbitration is the Arrangement Concerning Mutual Assistance in Court-ordered Interim Measures in Aid of Arbitral Proceedings by the Courts of the Mainland and the Hong Kong Special Administrative Region, which provides that any party to arbitral proceedings seated in Hong Kong and may apply to the Intermediate People’s Court in Mainland China for interim measures to support the arbitration, such as property preservation and evidence preservation.

B. Recognition and enforcement

Under the Foreign Judgments (Reciprocal Enforcement) Ordinance, an application can be made to the Hong Kong Court to register a foreign judgment for the payment of debt obtained in the superior court of certain countries. Once leave is granted to register, the foreign judgment can be enforced in the same way as a Hong Kong judgment. Under this Ordinance, there are 15 designated countries, namely Australia, Bermuda, Brunei, India, Malaysia, New Zealand, Singapore, Sri Lanka, Belgium, France, Germany, Italy, Austria, the Netherlands and Israel.

If a foreign judgment is not from one of these jurisdictions, it must be enforced at common law. In this case, the foreign judgment will form the basis of a cause of action and the judgment will be treated as a debt between the parties. To be enforceable at common law, the following requirements apply: (i) the foreign judgment must be for a debt or a definite sum of money, and the defendant must have submitted to the jurisdiction of the foreign court; (ii) The foreign judgment was final and conclusive; (iii) the foreign judgment was not obtained by fraud, and was obtained against the same defendant; (iv) the foreign judgment was not contrary to Hong Kong rules of public policy or notions of natural justice; (vi) the foreign court had

jurisdiction over the defendant according to Hong Kong rules; and (vii) an action in Hong Kong based on a foreign judgment must be brought within 12 years from the date on which the foreign judgment became enforceable.



Chapter VI – Competition

Hong Kong's first cross-sector competition law, the Competition Ordinance, came into force on 14 December 2015. The Competition Ordinance prohibits three types of anti-competitive conduct:

- The First Conduct Rule prohibits anti-competitive agreements and concerted practices by businesses, including horizontal agreements between competitors (such as cartels) and vertical agreements (such as resale price maintenance in a distribution agreement).
- The Second Conduct Rule prohibits businesses with a “substantial degree of market power” from abusing that power by acting anti-competitively. Examples of potentially abusive conduct include predatory pricing, refusal to deal and exclusivity arrangements.
- The Merger Rule prohibits mergers which have or are likely to have the effect of substantially lessening competition in Hong Kong.

The First Conduct Rule and the Second Conduct Rule apply to all sectors of the Hong Kong economy, while currently, the Merger Rule only applies to mergers involving a telecommunications license carrier.

The Competition Commission (the “**Commission**”) is an independent statutory body established to investigate, enforce and promote the Competition Ordinance. While the Commission has broad-ranging powers to investigate complaints, it is the Competition Tribunal and the courts of Hong Kong which have the powers to establish whether there has been a contravention of the Competition Ordinance.

Penalties for breach are wide-ranging and may include:

- individual monetary fines of up to HK\$1,000,000 and company fines of up to 10% of the total gross revenue of the entity in Hong Kong (up to a maximum of three years);
- imprisonment for individuals for up to two years;
- disqualification of directors for up to five years; or
- injunctions and other mandatory offers.

While all businesses must comply with the Competition Ordinance, there are exceptions for most statutory authorities and to SMEs which are threshold based. There is also a Cartel Leniency Policy, whereby in exchange for a cartel member's cooperation, the Commission will agree not to start proceedings for a pecuniary penalty against the first cartel member reporting that conduct to the Commission which meets all the requirements under that policy. Further incentives on reporting

include a Cooperation and Settlement Policy which outlines discounts for pecuniary penalties.

These rules apply even if a party or conduct takes place outside of Hong Kong. The key factor that the Commission will look at is whether the relevant conduct affects competition in Hong Kong.

The Commission will enforce the Competition Ordinance through proceedings at the Competition Tribunal. The Commission and the Communications Authority have also jointly published six sets of guidelines on how they intend to interpret and apply the provisions of the Competition Ordinance. The guidelines cover the three types of anti-competitive conduct mentioned above, how complaints are handled, the investigations process and applications for exclusions and exemptions under the Competition Ordinance.



Chapter VII – Taxation

A. Taxation structure

All companies carrying on a trade or business in Hong Kong are subject to profits tax on any assessable profits arising in, or derived from, Hong Kong sources. Profits derived from outside of Hong Kong are generally exempt from this tax, even if earned by a Hong Kong resident and remitted to Hong Kong, however, there are some exceptions to this rule. Effective from 1 January 2023, four types of offshore income, namely (i) interest, (ii) dividends, (iii) gains on disposal from the sale of equity interests, and (iv) IP income (“**specified foreign-sourced income**”) are deemed to be sourced from Hong Kong and chargeable to profits tax if the income is received in Hong Kong by a multinational enterprise entity carrying on a trade, profession, or business in Hong Kong (irrespective of its revenue or asset size) and the recipient entity fails to meet a relevant exception from the deeming provision e.g. for interest and gains on disposal of property other than IP, there is an economic substance test and for IP income and proceeds of disposal, there is a nexus test. For dividends and gains on disposal of equity interests, there is an economic substance or participation test.

With effect from 1 January 2024, the scope of specified foreign-sourced income was expanded to include gains on disposal for other types of assets (in addition to equity interests). A full discussion of the exceptions to the deeming provision goes beyond the scope of this note. Hong Kong does not tax locally-sourced dividends, bank interest or capital gains (although capital profits made in the trading of assets in the course of business will be assessable to profits tax).

Hong Kong has a relatively simple taxation system, with a low level of profits/income tax, with a two-tiered system for corporations, taxing the first HK\$2 million at 8.25% and the remainder at 16.5% for corporations. The most important tax legislation is contained in the Inland Revenue Ordinance. There are three main taxes: profits tax, salaries tax and property tax (taxes on rent and other deemed income from land and buildings). There are various other taxes, such as stamp duty on documents (principally those transferring an interest in land or securities), betting duty, entertainment tax and hotel accommodation tax. As previously referred to, there is also an annual fee and levy for the registration of businesses carried on in Hong Kong. There is no sales tax or any form of indirect consumption tax, such as value added tax. There is no total income concept, so if an item of income does not fall within one of these heads of tax charge, it is not taxable.

Hong Kong has no special tax incentive schemes for investors. Hong Kong entered into comprehensive double taxation agreements/arrangements with various regions and countries (see https://www.ird.gov.hk/tax/dta_inc.htm for the latest list). These include certain arrangements in place with the PRC Central People's Government authorities to minimise double taxation of cross border activities between PRC and Hong Kong and tax relief arrangements for international shipping and aircraft income.

The tax system is administered by the IRD, which issues guidance notes from time to time in relation to its application of relevant tax legislation.

B. Profits tax

1. The basic tax charge

Profits tax is chargeable on every person (including individuals and business organisations regardless of where they are incorporated) carrying on a trade, profession or business in Hong Kong in respect of any profits “arising in or derived from” Hong Kong. Additionally, certain receipts of income will be treated as taxable Hong Kong income even if the recipients have no presence in Hong Kong at all. These include royalties for the use of patents, trademarks, copyrights, designs or knowhow in Hong Kong, rental charges for moveable property in Hong Kong and cinema and television fees. There are also special taxation rules for insurance companies, clubs, trade associations and ship and aircraft owners and operators and financial institutions.

Whether a business is being carried on in Hong Kong is primarily a question of fact and must be distinguished from the case where a person is trading with Hong Kong. A common test to determine whether profits arise in or derive from a Hong Kong source is whether the operations from which the profits in substance arise took place in Hong Kong.

The Hong Kong branch office (Part 16 Company) or representative office of a foreign-incorporated business will be presumed to be carrying on trade or business in Hong Kong (and will therefore be liable to profits tax on profits from a local source) if its local operation constitutes “a place of business”. There is no difference between the charge to profits tax for a Hong Kong incorporated company and the charge to a non-Hong Kong company.



2. Chargeable profits

Normal accounting principles are generally accepted in determining profits or losses for tax purposes, except where there is a specific statutory provision. Business records enabling profits to be readily ascertained must be kept for at least seven years.

Profits on the sale of capital assets are not taxable and in practice this is extended to other forms of capital gain.

Dividends received from a corporation subject to Hong Kong profits tax, and income already included in the assessable profits of another person chargeable to Hong Kong profits tax, are excluded from the chargeable profits of the recipient.

3. Deductible expenditure and losses

Expenditure may be deducted to the extent that it is incurred in the production of chargeable profits is deductible. Expenditure of a capital nature is not deductible though allowances on depreciation may be available. Deductible expenditure includes interest (subject to certain statutory conditions), bad and doubtful debts (any sums subsequently recovered being treated as income when received), repair costs for premises, plant and machinery and rent for land used to produce the profit, registration of a trade mark, design or patent and the purchase of patent or know-how rights, research and development, an employer's annual contribution to a fund under a recognised occupational retirement scheme or the like and donations of not less than HK\$100 made to approved charities (so long the donations do not exceed 35% of the assessable profits).

Losses in one year can be carried forward indefinitely against the future profits of that person, but losses of one company cannot be set off against profits of another group company. However, losses made by a company carrying on more than one trade may offset losses in one trade against profits of the other e.g. if you have a wine sales and an event hosting division, losses in the wine sales division could be offset against profits in the event hosting division.

4. Year of assessment

A taxpayer is assessed on profits tax for each year of assessment in which he or she earns assessable profits. A "year of assessment" commences on 1 April and concludes on 31 March in the following year.

A taxpayer is under a duty to provide an income statement to the IRD within four months of the end of the tax year. The IRD has wide powers to obtain information.

Profits tax is assessed on a "current year" basis. The normal "basis period" for a profits tax assessment for a continuing business is the period of the assessment year. A taxpayer's assessable profits are normally computed on the full amount of his or her profits which have arisen or derived from Hong Kong during the year ending 31 March.

C. Salaries tax

5. Taxable income

All Hong Kong based employees, regardless of their nationality, are liable to pay Hong Kong salaries tax on any income generated from Hong Kong employment. "Income" includes all benefits, including salary, bonuses and all perquisites capable of being turned into money. Any income from employment-related services performed in Hong Kong will constitute Hong Kong employment, and will therefore be taxable. In the absence of special circumstances, an employee seconded to work for an employer conducting business in Hong Kong will be presumed to be engaged in Hong Kong employment, even if some services are performed outside of Hong Kong.

Salaries tax is chargeable on a person's net chargeable income "arising in or derived from" his Hong Kong employment, any office he holds and any pension he receives during the tax year. The tax is charged at progressive rates, subject to a maximum effective standard rate of 16 per cent.

Employees whose period of secondment or visits to Hong Kong last not more than 60 days (in aggregate) in any tax year will not be liable, by virtue of those visits alone, to Hong Kong salaries tax. The extraterritorial jurisdiction of certain tax laws in other countries frequently subjects expatriate workers in Hong Kong to double taxation. Accordingly, seconded workers will need to look to the domestic law of his or her home country for double taxation relief.

6. Administration

Salaries tax is charged on the actual income of the tax year. The employer is not required to deduct tax at source which leaves the onus on employees to make provision for taxation during the course of the year. A provisional tax charge for the following tax year is made during the current tax year, with any excess being applied towards salaries tax chargeable for the following year.

An employer must also provide certain returns about his employees and inform the IRD when an employee is about to leave Hong Kong, so that the IRD may ensure all tax is paid before departure.

D. Stamp duty

The Government levies stamp duty on certain instruments executed or brought into Hong Kong, including transfers of Hong Kong stock and transfers or leases of immovable property situated in Hong Kong. The standard rate of *ad valorem* duty on the sale and purchase of Hong Kong stock was reduced to 0.2% (0.1% on the sale, 0.1% on the purchase) with effect from 17 November 2023. Stamp duty is physically levied by stamping on the bought and sold notes (which transfer beneficial ownership) with nominal duty of HK\$5 levied on the instrument of transfer (which transfers legal title only). Stamping is due on bought and sold notes within two days after the sale or purchase if effected in Hong Kong and within 30 days if effected elsewhere and before execution on an instrument of transfer if executed in Hong Kong and within 30 days of execution if executed elsewhere.

Transfers of sale and purchase agreements in relation to interests in immovable property attract *ad valorem* stamp duty at progressive rates from HK\$100 (for property consideration of up to HK\$4² million) to 4.25% (for property consideration exceeding HK\$21.739 million). A lease under which rent is payable attracts duty of between 0.25% and 1% of the annual rent, depending on the lease period and must be stamped within 30 days of execution. Failure to stamp a stampable instrument can lead to fines and the document being inadmissible in evidence in a dispute.

There is relief from stamp duty on, among other things, transfers of interests in land or Hong Kong securities between associated companies (having 90 per cent common ownership) where the consideration for the transfer is funded by the group or financed by banks on an arm's length basis in the normal course of business. The relief is lost if the companies cease to be associated within two years from the transfer.



² With effect from 26 February 2025, as announced in Hong Kong's 2025-6 Budget.

Appendix – Useful Contacts

Business services

- Hogan Lovells – www.hoganlovells.com
- Hong Kong Tourism Board – www.discoverhongkong.com
- Hong Kong Trade Development Council – www.hktdc.com
- Invest HK – www.investhk.gov.hk

Hong Kong Government

- Create Hong Kong – www.createhk.gov.hk
- Hong Kong Government home page – www.gov.hk
- Immigration Department – www.immd.gov.hk/
- Inland Revenue Department – www.ird.gov.hk
- Labour Department – www.labour.gov.hk
- Trade and Industry Department – www.tid.gov.hk

Banking, financial and insurance

- Financial Services and the Treasury Bureau – www.fstb.gov.hk
- Hong Kong Exchanges and Clearing Limited – www.hkex.com.hk
- Hong Kong Institute of Certified Public Accountants – www.hkicpa.org.hk
- Hong Kong Monetary Authority – www.hkma.gov.hk
- Mandatory Provident Fund Schemes Authority – www.mpfa.org.hk
- Insurance Authority – www.ia.org.hk
- Securities and Futures Commission – www.sfc.hk



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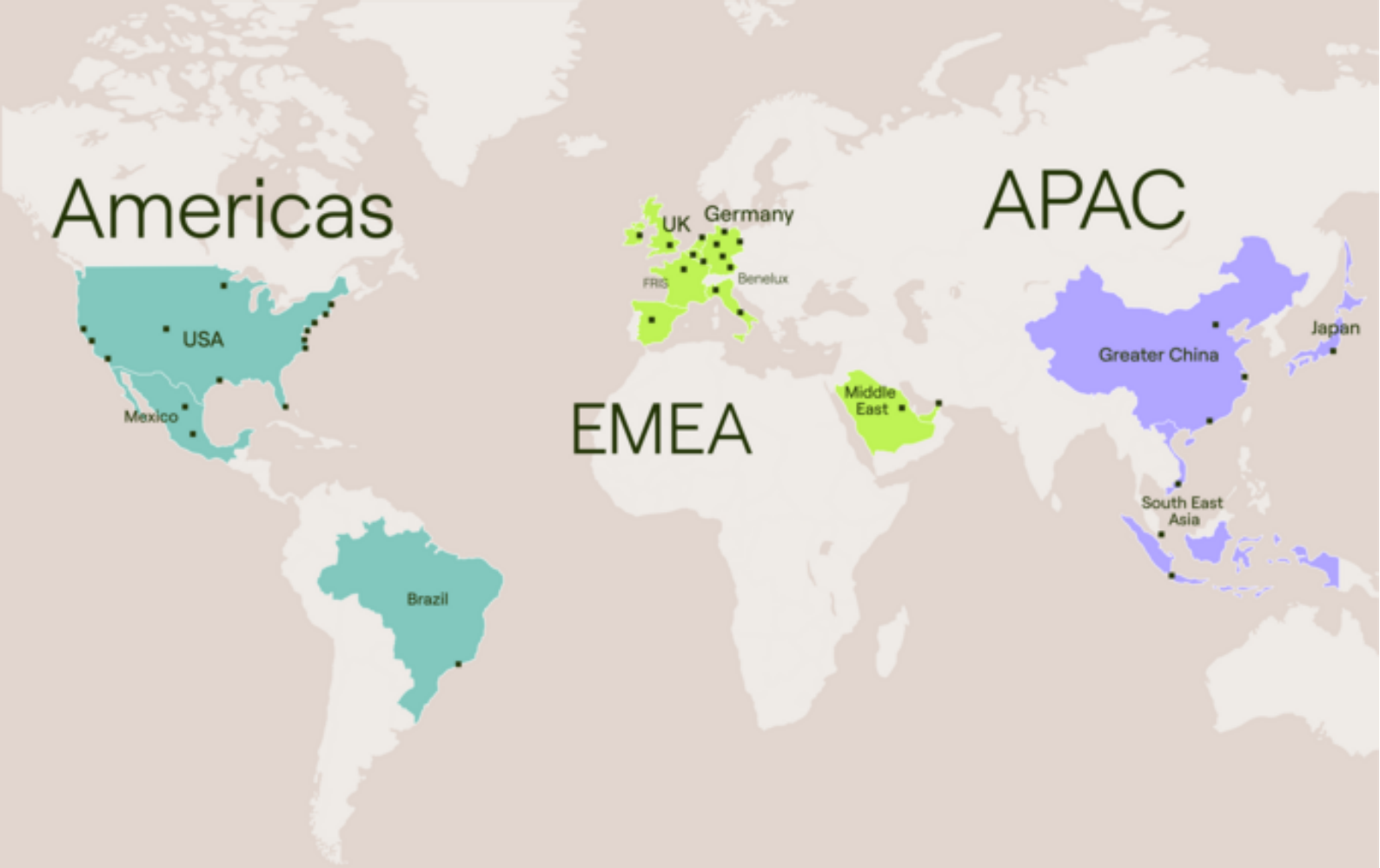
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