

EXCHANGE FUND ORDINANCE**(Cap. 66)****Contents**

Section		Page
1.	Short title	2
2.	Interpretation	2
3.	Establishment, control and management of Exchange Fund	4
3A.	Power to require accounts to be opened, maintained and operated	8
4.	Certificates of indebtedness	10
4A.	<i>(Repealed)</i>	14
5.	Preservation of limits on note issue	14
5A.	Appointment of Monetary Authority	14
5B.	Delegation to Monetary Authority	16
6.	Charges on Fund	16
7.	Audit of Fund	18
8.	Transfer from the Fund	18
SCHEDULE		S-2

To make provision for the establishment and management of an exchange fund and as to the employment of its assets in Hong Kong.

(Amended 20 of 1948 s. 4; 17 of 1979 s. 2)

[6 December 1935]

1. Short title

This Ordinance may be cited as the Exchange Fund Ordinance.

(Amended 20 of 1948 s. 4)

2. Interpretation

In this Ordinance, unless the context otherwise requires—

“authorized institution” (認可機構) means a bank, a restricted licence bank or a deposit-taking company licensed or registered under the Banking Ordinance (Cap. 155); *(Added 12 of 1995 s. 2)*

“foreign exchange” (外匯) means all freely convertible currencies other than Hong Kong currency; *(Replaced 12 of 1995 s. 2)*

“freely convertible” (可自由兌換) with respect to a currency means that it may be traded on the international foreign exchange markets; *(Added 12 of 1995 s. 2)*

“legal tender notes” (法定貨幣紙幣)—

(a) means—

- (i) currency notes issued in Hong Kong by the Financial Secretary pursuant to section 3(1) of the Legal Tender Notes Issue Ordinance (Cap. 65); and
- (ii) bank notes issued in Hong Kong by a note-issuing bank in accordance with the terms and conditions (if any) to which its authorization (or deemed

authorization) under section 3(2) of that Ordinance is subject; and

- (b) includes any bank notes which were legal tender pursuant to that Ordinance as in force immediately before the commencement of the Bank Notes Issue (Amendment) Ordinance 1995 (98 of 1995); (*Added 98 of 1995 s. 6*)

“Monetary Authority” (金融管理專員) means the Monetary Authority appointed under section 5A; (*Added 82 of 1992 s. 2*)

“note-issuing bank” (發鈔銀行) has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65). (*Replaced 98 of 1995 s. 6*)

(*Amended 98 of 1995 s. 6*)

3. Establishment, control and management of Exchange Fund

- (1) There shall be established a fund to be called “the Exchange Fund” (外匯基金) which shall be under the control of the Financial Secretary and shall be used primarily for such purposes as the Financial Secretary thinks fit affecting, either directly or indirectly the exchange value of the currency of Hong Kong and for other purposes incidental thereto. The control of the Financial Secretary shall be exercised in consultation with an Exchange Fund Advisory Committee of which the Financial Secretary shall be ex officio chairman and of which the other members shall be appointed by the Chief Executive. (*Amended 12 of 1946 s. 2; 26 of 1983 s. 2; 82 of 1992 s. 3; 68 of 1999 s. 3*)
- (1A) In addition to using the Fund for its primary purpose, the Financial Secretary may, with a view to maintaining Hong Kong as an international financial centre, use the Fund as he thinks fit to maintain the stability and the integrity of the

- monetary and financial systems of Hong Kong. (*Added 82 of 1992 s. 3*)
- (1B) The Financial Secretary, in using the Fund for the purpose specified in subsection (1A), shall have regard to the primary purpose of the Fund. (*Added 82 of 1992 s. 3*)
- (2) The Fund, or any part of it, may be held in Hong Kong currency or in foreign exchange or in gold or silver or may be invested by the Financial Secretary in such securities or other assets as he, after having consulted the Exchange Fund Advisory Committee, considers appropriate; and the Financial Secretary may for the account of the Fund— (*Replaced 25 of 1971 s. 2. Amended 8 of 1975 s. 2; 26 of 1983 s. 2; 12 of 1995 s. 3*)
- (a) buy or sell such currency, foreign exchange, gold, silver, securities or assets accordingly; and (*Added 12 of 1995 s. 3*)
- (b) after having consulted the Exchange Fund Advisory Committee, enter into any financial arrangement that he considers appropriate for the prudent management of the Fund. (*Added 12 of 1995 s. 3*)
- (3) Without restricting the generality of the powers of the Financial Secretary under subsections (1) and (1A) but subject to subsection (4), the Financial Secretary may borrow for the account of the Fund either in Hong Kong or elsewhere, on the security of the general revenue. (*Replaced 12 of 1995 s. 3*)
- (3A) There shall be credited to the Fund the value of—
- (a) any coinage issued under or by virtue of the Coinage Ordinance (Cap. 454);
- (b) any legal tender note referred to in paragraph (a)(i) of the definition of “legal tender notes”;

- (c) any proceeds of sale of such coinage after it has ceased to be legal tender. *(Replaced 98 of 1995 s. 7)*
- (4) The aggregate amount of borrowing under subsection (3) outstanding at any one time shall, subject to subsection (5), not exceed fifty thousand million dollars, or, if held in foreign exchange, the equivalent at the current rate of exchange. *(Added 25 of 1971 s. 2. Amended L.N. 150 of 1971; L.N. 125 of 1972; L.N. 56 of 1980; L.N. 173 of 1980; L.N. 363 of 1980; L.N. 388 of 1981; L.N. 64 of 1987; 12 of 1995 s. 3)*
- (5) The Legislative Council may from time to time, by resolution proposed, with the approval of the Chief Executive in Council, by a designated public officer required and directed by the Chief Executive to attend a sitting of the Legislative Council for that purpose, determine some other amount to be the amount which the aggregate amount of such borrowings outstanding at any one time shall not exceed. *(Added 25 of 1971 s. 2. Amended 16 of 1984 s. 2; 12 of 1995 s. 3; 68 of 1999 s. 3)*

3A. Power to require accounts to be opened, maintained and operated

- (1) The Financial Secretary may by notice in writing served on an authorized institution require that institution to open an account with the Monetary Authority for the account of the Exchange Fund and to maintain and operate such account on such terms and conditions as he considers appropriate having regard to the purposes for which the Exchange Fund is required to be or may be used under section 3(1) and (1A).
- (2) The Financial Secretary may at any time by notice in writing served on an authorized institution add to or vary the terms or conditions imposed on it under subsection (1), in any manner which is not inconsistent with the fulfillment of the purposes

for which the Exchange Fund is required to be or may be used under section 3(1) or (1A).

- (3) Any authorized institution aggrieved by any requirement imposed on it under subsection (1) or by any addition or variation made under subsection (2) may appeal to the Chief Executive in Council against such requirement, addition or variation. *(Amended 68 of 1999 s. 3)*
- (4) The Chief Executive in Council may determine an appeal under this section by confirming, varying or reversing the requirement, addition or variation against which the appeal was lodged. *(Amended 68 of 1999 s. 3)*
- (5) A notice under this section may be served on an authorized institution by leaving it at or sending it by post to its principal place of business in Hong Kong.

(Added 12 of 1995 s. 4)

4. Certificates of indebtedness

- (1) The Financial Secretary is authorized to issue to any note-issuing bank, to be held as cover for legal tender notes (other than such notes referred to in paragraph (a)(i) of the definition of “legal tender notes”), a certificate of indebtedness in the form in the Schedule and to require such bank to pay to him for the account of the Fund the face value of the notes so issued, or the equivalent in such foreign exchange and at such rate of exchange as may be determined by the Financial Secretary, to be held by the Fund principally for the redemption of such notes and may be used for such purposes in the event of a note-issuing bank being wound up in Hong Kong or elsewhere. *(Replaced 4 of 1951 Schedule. Amended 26 of 1983 s. 3; 16 of 1984 s. 3; 58 of 1993 s. 3; 98 of 1995 s. 8)*

- (2) The Financial Secretary may employ the funds paid to him in accordance with subsection (1), for the purchase of foreign exchange or gold or otherwise in accordance with the provisions of section 3(2) or for the reduction of the amount of the indebtedness of the Government as recorded in the register maintained by the Monetary Authority under subsection (4) by payments either in Hong Kong dollars or the equivalent in such foreign exchange and at such rate of exchange as may be determined by the Financial Secretary. *(Replaced 4 of 1951 Schedule. Amended 16 of 1984 s. 3)*
- (3) The Financial Secretary may apply the proceeds of the sale of foreign exchange or gold for Hong Kong currency in accordance with section 3(2) to the reduction of the amount of the indebtedness of the Government as recorded in the register maintained by the Monetary Authority under subsection (4). *(Amended 12 of 1946 s. 2)*
- (4) The Monetary Authority shall establish and maintain a register of all certificates of indebtedness issued by the Financial Secretary and of all payments made to the Financial Secretary pursuant to subsection (1) and all payments made by the Financial Secretary for the reduction of the amount of the indebtedness of the Government pursuant to subsection (2) or (3). *(Added 12 of 1995 s. 5)*
- (5) A document purporting to be a copy of a register maintained by the Monetary Authority under subsection (4) (or any part thereof) or, where such register is maintained otherwise than in a legible form but is capable of being reproduced in a legible form, a document purporting to be such a reproduction (or a reproduction of any part thereof) and purporting to be signed by the Monetary Authority shall be admissible in any judicial proceedings and shall be deemed to have been signed by the Monetary Authority and the facts recorded thereon

shall be deemed to be established, in the absence of evidence to the contrary. *(Added 12 of 1995 s. 5)*

(Amended 12 of 1995 s. 5)

4A. *(Repealed 64 of 1987 s. 31)*

5. Preservation of limits on note issue

Nothing in this Ordinance shall empower any note-issuing bank to issue notes in excess of any maximum limit laid down in any Ordinance or charter governing the issue of such notes, and in issuing certificates under section 4 the Financial Secretary shall take into account such maximum limits.

(Replaced 4 of 1951 Schedule. Amended 7 of 1978 s. 3; 12 of 1995 s. 6)

5A. Appointment of Monetary Authority

- (1) The Financial Secretary shall appoint a person to be the Monetary Authority on such terms and conditions as he thinks fit.
- (2) The Monetary Authority shall—
 - (a) assist the Financial Secretary in the performance of his functions under this Ordinance;
 - (b) perform such functions as the Financial Secretary may direct; and
 - (c) perform functions imposed on or assigned to the Monetary Authority by any other Ordinance.
- (3) The Financial Secretary may appoint, on such terms and conditions as he thinks fit, persons to assist the Monetary Authority in the performance of the functions of the Monetary Authority specified in subsection (2).

(4) Notwithstanding subsection (2)(b) and (c), the Monetary Authority and persons appointed to assist him under subsection (3) shall be regarded, for all purposes, as employed in connection with the purposes of the Fund.

(5) In this section “functions” (職能) includes powers and duties.

(Added 82 of 1992 s. 4)

5B. Delegation to Monetary Authority

(1) The Financial Secretary may delegate to the Monetary Authority the powers and duties conferred or imposed on the Financial Secretary under this Ordinance.

(2) A delegation or a subdelegation under this section—

(a) shall not preclude the Financial Secretary from exercising the power or performing the duty;

(b) may be conditional, qualified or limited as the Financial Secretary thinks fit;

(c) may be to a person performing the functions of the Monetary Authority for the time being; and

(d) may be amended by the Financial Secretary.

(3) The Financial Secretary may include in a delegation under this section power to subdelegate the powers and duties delegated on such terms and to such person or to any person of a class or description, as may be specified by him.

(Added 82 of 1992 s. 4)

6. Charges on Fund

There shall be charged to the Fund—

(a) the emoluments payable to, and other staff costs relating to, the persons employed in connection with the purposes of the Fund, including the investment

thereof, and also including any appropriate share of such emoluments or staff costs in respect of the services of public officers so employed as part of their duties:

Provided that the number of appointments and the emoluments of such staff have been approved by the Financial Secretary; *(Replaced 26 of 1983 s. 4)*

- (aa) any expenses incurred in the issue and maintenance in circulation of any coinage issued under or by virtue of the Coinage Ordinance (Cap. 454); and *(Added 26 of 1983 s. 4. Amended 81 of 1994 s. 7)*
- (b) any incidental expenditure which the Chief Executive may approve as necessary for the due performance of the duties laid upon the Financial Secretary and the Advisory Committee in connection with the operation of the fund. *(Replaced 44 of 1936 s. 3. Amended 12 of 1946 s. 2; 20 of 1948 s. 4; 68 of 1999 s. 3)*

7. Audit of Fund

The accounts of all transactions of the Fund shall be audited at such times and in such manner as the Chief Executive may from time to time direct.

(Amended 44 of 1936 s. 3; 26 of 1983 s. 5; 68 of 1999 s. 3)

8. Transfer from the Fund

Where the Financial Secretary is satisfied that such transfer is not likely to affect adversely his ability to fulfill any purpose for which the Exchange Fund is required to be or may be used under section 3(1) or (1A), he may, after consulting the Exchange Fund Advisory Committee, and with the prior approval of the Chief Executive in Council, transfer from the Fund to the general revenue or to such other fund or funds of the Government as may be authorized by the Chief Executive in Council any sum or part of any sum in excess

EXCHANGE FUND ORDINANCE

20

Section 8

Cap. 66

of the amount required to maintain the assets of the Fund at 105% of the total obligations of the Fund for the time being outstanding and may for the purpose of any such transfer realize any of the assets of the Fund.

(Replaced 12 of 1995 s. 7. Amended 68 of 1999 s. 3)

EXCHANGE FUND ORDINANCE

SCHEDULE

S-2

Cap. 66

SCHEDULE

[s. 4(1)]

HONG KONG

EXCHANGE FUND ORDINANCE

(Chapter 66)

Certificate of Indebtedness

This certificate issued under the Exchange Fund Ordinance (Chapter 66) represents indebtedness of the Hong Kong Government without interest to

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for the amount shown as such in the register of the Monetary Authority maintained under section 4(4) and is redeemable at any time at the option of the Financial Secretary at its face value or the equivalent in such foreign exchange and at such rate of exchange as may be determined by the Financial Secretary.

This certificate may be held up to the above-mentioned amount as cover for bank notes lawfully issued in Hong Kong.

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Monetary Authority.

(Replaced 26 of 1983 s. 6. Amended 16 of 1984 s. 4; 82 of 1992 s. 5; 12 of 1995 s. 8)