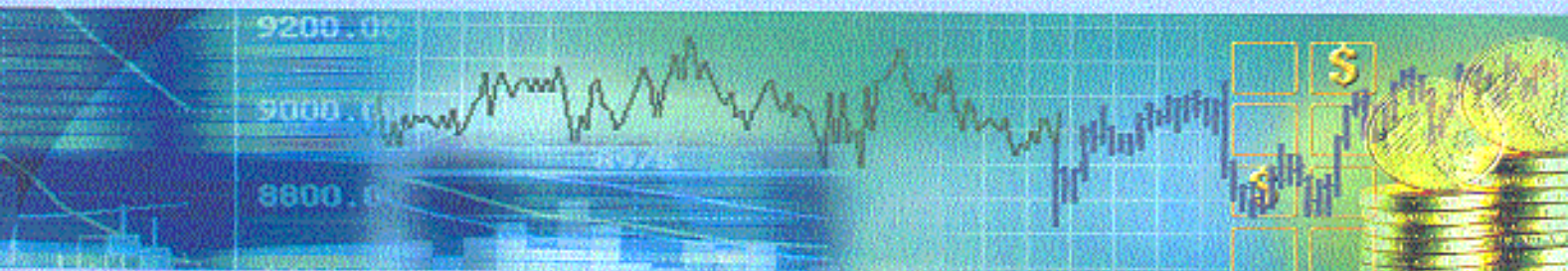


Rules for the Capital Investment Entrant Scheme



Rules for the Capital Investment Entrant Scheme

NOTE (1): Individuals who apply to enter Hong Kong, and/or remain in Hong Kong, pursuant to the Capital Investment Entrant Scheme (the Scheme) are subject to these Rules (the Scheme Rules).

NOTE (2): The provisions of the Immigration Ordinance and any law or legislation including subsidiary legislation in force from time to time also apply to any person entering Hong Kong under the Scheme and the dependants of such person.

NOTE (3): The Director of Immigration (the Director) reserves the right to amend the Scheme Rules to the full extent permitted by law. For the most up-to-date version of the requirements of the Scheme and the amendments to them see the Immigration Department's website at <http://www.immd.gov.hk/>.

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These Scheme Rules consist of paragraphs dealing with :

1. Interpretation, Meaning and Anti-avoidance (pages 3-7)

These are of general application to the Scheme Rules and should be kept in mind when applying to enter Hong Kong, and remaining in Hong Kong, under the Scheme.

2. Eligibility Criteria (pages 7-8)

3. Scope of the Scheme's Application Policy (page 9)

4. Permissible Investment Asset Classes (pages 9-11)

- Real estate
- Specified financial assets
 - Equities
 - Debt securities
 - Certificates of Deposits
 - Subordinated debt
 - Eligible Collective Investment Schemes

5. Portfolio Maintenance Requirements (pages 11-19)

- Real estate in Hong Kong
- Specified financial assets

6. Change in Value of Investment (page 19)

7. Other Relevant Requirements (pages 19-21)

8. Entry, Stay and Extension (pages 21-23)

1. Interpretation, Meaning and Anti-avoidance

- 1.1** The Scheme Rules, which expression includes throughout these Rules all amendments to them from time to time, are written in simple English and are intended to be given a fair, large and liberal interpretation to ensure the attainment of the objects of the Scheme.
- 1.2** Unless a contrary intention appears from these Scheme Rules, including their context, and the amendments to them, references to genders are interchangeable (but note that only an **individual** and **NOT**, for example, a corporation or trust is eligible for approval under the Scheme), and the singular includes the plural and vice versa.
- 1.3** The words “include”, “including”, “example” and the examples themselves are not used as or intended to be words or examples of limitation.
- 1.4** The examples are given by way of illustration or partial illustration of the Scheme Rules. In the event of any inconsistency between (including omission from) the examples and the text of the Scheme Rules, the text will prevail.
- 1.5** The only authentic version of the Scheme Rules is the English version although a Chinese translation is also provided for reference. In the event of any inconsistency between the English version of the Scheme Rules and the Chinese translation, the English version will prevail.
- 1.6** Neither the Chinese translation nor the headings to the paragraphs and sub-paragraphs, whether in Chinese or English, affects the interpretation of the terms of the Scheme Rules.
- 1.7** “Applicant”
means an individual who lodges with the Director an application in the form prescribed by him for Approval-in-Principle or Formal Approval to enter Hong Kong and/or remain in Hong Kong pursuant to the Scheme and before Formal Approval is refused or granted by the Director.

1.8 “Applicant/Entrant”

unless the contrary intention appears from the Scheme Rules or from the context, this means an Applicant and/or an Entrant as the case may be.

1.9 “Approval-in-Principle”

means a preliminary and provisional grant of approval in writing given by the Director to the Applicant to enter Hong Kong and/or remain in Hong Kong pursuant to the Scheme.

1.10 “Entrant”

means an individual who has been granted Formal Approval by the Director to enter Hong Kong and/or remain in Hong Kong pursuant to the Scheme.

1.11 “Formal Approval”

means a confirmed grant of approval in writing given by the Director to the Applicant to enter Hong Kong and/or remain in Hong Kong pursuant to the Scheme.

1.12 “HK\$[figure] Net”

means in relation or by reference to any asset, property or equity, the figure in Hong Kong dollars after deducting the amount of any and every charge, lien or encumbrance which may be secured on or attached to that asset, property or equity, as the case may be.

1.13 “Market value”

1.13.1 as a general principle this means the best price reasonably obtainable for which assets or property should exchange as between a willing buyer and a willing seller in an arm’s length transaction after appropriate marketing wherein the parties had each acted knowledgeably, prudently, without compulsion or regard to the Scheme. The best price reasonably obtainable is the gross price not the net proceeds.

1.13.2 Without affecting this general principle, in the case of Real estate the market value usually includes fixtures and fittings that would not normally be removed if the property was sold in a transaction between parties at arm's length. This includes for example kitchen fittings but not carpets and curtains.

1.13.3 The value of any assets or property for the purposes of the Scheme including the Surplus Equity will be ascertained by the Director in such manner and by such means as he thinks fit.^{Note 1} The Director is expected, for example, to scrutinise closely :

- (a) transactions between parties not at arm's length for example relatives or associated persons such as companies or trusts under the influence of or influenced by the Applicant, the Entrant or his or their relatives or associates; and
- (b) suspected "back-to-back" arrangements where the Applicant or Entrant has raised money on the security of Real estate qualifying for the Scheme in order to circumvent the prohibition on financing the acquisition or holding of Specified financial assets by borrowing or leveraging against Specified financial assets.

1.13.4 In the event that the price or consideration advanced or relied upon by the Applicant or Entrant as being the Market value of the asset or property in question for any purpose of the Scheme is not the Market value of that asset or property, the Director may substitute the Market value for all purposes of the Scheme. This may result in the Applicant or Entrant not becoming eligible for or being or becoming disqualified from the Scheme. This substitution of the Market value may also affect the amount of the Surplus Equity available to the Entrant to make use of as he wishes (see paragraph **5.1** (a) (v)-(vi) below).

^{Note 1} For a review provision see section 53 of the Immigration Ordinance.

1.14 “Net assets” or “Net equity”

“Net assets” is used interchangeably with “Net equity” and in either case means any asset, property or equity after deducting the amount of any and every charge, lien and encumbrance secured on or attached to that asset, property or equity, as the case may be.

1.15 “Permissible investment assets”

means the assets in either or both classes referred to in paragraph 4 including Real estate in Hong Kong and Specified financial assets.

1.16 “Specified financial assets”

means the assets in the class of assets referred to by that name in paragraph 4.1(b) including equities, debt securities, certificates of deposits, subordinated debt and eligible collective investment schemes.

1.17 “Surplus Equity”

has the meaning given in paragraph 5.1(a)(v).

1.18 “working day”

means a day other than :

- (a) a Sunday;
- (b) a public holiday; or
- (c) a gale warning day or a black rainstorm warning day as defined in section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1 of the Laws of Hong Kong).

1.19 *Anti-avoidance*

1.19.1 Whether or not for bona fide commercial reasons, the Applicant/Entrant must not, whether on his own or in collusion with others including his financial intermediary, enter into, facilitate or permit any transaction, agreement or arrangement, whether or not legally binding, which in the opinion of the Director, directly or indirectly, has as its purpose or effect or one of its purposes or effects (other than de minimis), the contravention or avoidance of any Scheme Rules.

1.19.2 An Applicant/Entrant acknowledges that by having lodged an application for Approval-in-Principle or Formal Approval as an Applicant :

- (a) much of the information relevant to his eligibility and continuing entitlement under the Scheme, whether as an Applicant or as an Entrant, is known or available to him or could be known or available to him by making all reasonable and timely enquiries of others; and
- (b) if the Director is of the opinion that the Applicant or the Entrant has or may have contravened or avoided any Scheme Rules or has not provided relevant, accurate information in a timely fashion, the burden of proving the contrary shall be upon the Applicant or the Entrant, as the case may be.

2. Eligibility Criteria

2.1 Subject to the terms of these Scheme Rules, an Applicant who satisfies the following criteria will be eligible for Approval-in-Principle or Formal Approval as the case may be:

- (a) aged 18 or over when lodging an application for Approval-in-Principle or Formal Approval;
- (b) subject to sub-paragraph (c) below, has Net assets or Net equity to which he is absolutely beneficially entitled with a Market value of not less than HK\$6.5 million Net throughout the two years preceding the date he lodged his application for Approval-in-Principle or Formal Approval;
- (c) (i) has invested within and thereafter throughout the period beginning six months **before** lodging his application for Formal Approval; **or**

- (ii) invests within and thereafter throughout the period beginning six months **before** lodging his application for Approval-in-Principle and ending six months **after** Approval-in-Principle has been granted; **or**
- (iii) has invested within and thereafter throughout the period beginning six months **after** Approval-in-Principle has been granted;

not less than HK\$6.5 million Net in Permissible investment assets to which he is absolutely beneficially entitled. To this there is an exception for any Certificates of Deposits which the Entrant, if he chooses to invest in them for the purpose of qualifying under the Scheme, must do so within, and thereafter be absolutely beneficially entitled to them, throughout the period beginning six months **after** Approval-in-Principle has been granted by the Director;

- (d) can demonstrate to the Director that he is capable of supporting and accommodating himself and his dependants, if any, on his own without relying on any return on the Permissible investment assets, employment, self-employment, office, business or public assistance in or carried on in Hong Kong as the case may be. In addition, the entry of dependants will be subject to any other policy applicable to such entry at the time^{Note 2}; and
- (e) has no adverse immigration record and meets normal immigration and security requirements.

Note 2 Under existing policy, spouses and unmarried children under the age of 18 are allowed to join the Entrant (i.e. the sponsors) provided that there is no security objection, no known record of serious crime, no likelihood of their becoming a burden on Hong Kong and that the sponsors in Hong Kong are able to support them at a standard well above subsistence level and provide them with accommodation.

3. Scope of the Scheme's Application Policy

3.1 The Scheme covers foreign nationals (except those who are excluded from the scope of the Scheme as may be determined by the Director of Immigration from time to time^{Note 3}), Macao SAR residents, Chinese nationals who have obtained permanent resident status in a foreign country, stateless persons who have obtained permanent resident status in a foreign country with proven re-entry facilities and Taiwan residents.

4. Permissible Investment Asset Classes

4.1 The Applicant/Entrant must invest and remain invested throughout the period of the Scheme applicable to him^{Note 4} in either or both of the two Permissible investment asset classes at paragraph 4.1(a) and (b) below, and subject to certain exceptions in such amounts and proportions as he wishes from time to time (please refer to paragraph 5 below) :

(a) **Real estate**, whether commercial, industrial or residential, or mixed user, including land and pre-completion properties, in Hong Kong. Real estate for this purpose excludes illegal or unlawful use or occupation of land, and boats, houseboats, trailers, caravans, illegal structures and cocklofts whether or not rated, connected to mains water or power supplies, or on permanent or fixed moorings or foundations, as the case may be.

(b) **Specified financial assets** :

(i) **Equities**

shares of companies that are listed on the Hong Kong Stock Exchange and traded in Hong Kong Dollars;

Note 3 Nationals from the following countries are at the moment excluded from the Scheme: Afghanistan, Albania, Cuba, and the Democratic People's Republic of Korea.

Note 4 For the period of the Scheme applicable to him see paragraph 8.4.

(ii) ***Debt securities***

denominated in Hong Kong Dollars including fixed or floating rate instruments and convertible bonds^{Note 5} which are issued or fully guaranteed by :

(1) the HKSAR Government (the Government), the Exchange Fund, the Hong Kong Mortgage Corporation, the MTR Corporation Limited, the Kowloon-Canton Railway Corporation, Hong Kong Airport Authority, and other corporations, agencies or bodies wholly or partly owned by the Government as may be specified from time to time by the Director; or

(2) companies referred to under (i) above;

(iii) ***Certificates of Deposits***

denominated in Hong Kong Dollars issued by authorised institutions as defined in the Banking Ordinance with a remaining term to maturity of not less than 12 months at the time of acquisition by the Applicant/Entrant. This acquisition must take place after Approval-in-Principle has been granted by the Director. These Certificates on reaching maturity must be replaced by Certificates of Deposits with a remaining term to maturity of not less than 12 months at the time of acquisition by the Applicant/Entrant or by other Permissible investment assets;

(iv) ***Subordinated debt***

denominated in Hong Kong Dollars issued by authorised institutions which satisfies paragraph 3(k) and 3(m) (capital adequacy ratios) of the Third Schedule to the Banking Ordinance; and

Note 5 If an Applicant or an Entrant exercises the option to convert the bonds to shares, the investment would be regarded as equities and treated as such afterwards.

(v) ***Eligible Collective Investment Schemes*** ^{Note 6}

namely those collective investment schemes published and updated from time to time by the Director on the Immigration Department's website at <http://www.immd.gov.hk/>.

5. Portfolio Maintenance Requirements

5.1 In order to qualify and remain qualified under the Scheme, an Applicant/Entrant will have to comply with the following requirements in respect of his portfolio of Permissible investment assets **AND provide such material information in writing with regard to these assets as the Director may request in order to assess the Applicant's/Entrant's eligibility and entitlement (if any) under the Scheme :**

(a) ***Real estate in Hong Kong***

- (i) The Applicant/Entrant must be and remain the absolute beneficial owner of all Real estate included as Permissible investment assets under the Scheme and is required to prove to the satisfaction of the Director all the relevant details of material transactions including its acquisition, disposal and mortgages.
- (ii) Only Net equity in Real estate in Hong Kong qualifies and there is no restriction on the number of Real estate properties which may be acquired for the purpose of achieving the qualifying investment with a Market value of not less than HK\$6.5 million Net or for the purposes of maintaining the portfolio of Permissible investment assets.

Note 6

An Eligible Collective Investment Scheme under the Scheme should be managed by a corporation licensed under Part V of the Securities and Futures Ordinance and invested as to at least 70% of its average net assets in Permissible investment assets as specified in paragraph 4.1 (a) or (b) (i)-(iv) above. An Eligible Collective Investment Scheme may be domiciled in Hong Kong or elsewhere, but it must be denominated in Hong Kong Dollars and it must be a fund authorised by the Securities and Futures Commission for sale to the public in Hong Kong.

- (iii) A mortgage may be entered into, and refinanced, with a bank or financial institution licensed in Hong Kong charged on the Real estate but only the amount of the Net equity in that Real estate is capable of qualifying under the Scheme.
- (iv) An Applicant/Entrant may at any time dispose of or realise the value of the Real estate which qualifies under the Scheme but will only continue to be eligible and to qualify under the Scheme if he reinvests **NOT LESS THAN** the entire Market value of that Real estate in Permissible investment assets after deducting :
 - (1) the amount required to redeem his outstanding mortgage (if any) charged on that Real estate – this redemption will usually be required by the lending bank or financial institution; and
 - (2) the whole or part of his Surplus Equity (if any – see paragraph 5.1(a) (v) below) to the extent he wishes not to reinvest that Surplus Equity.
- (v) The Applicant/Entrant may acquire Real estate with a Market value of more than HK\$6.5 million Net (e.g. HK\$10 million). Any such excess or surplus at the date of purchase over the minimum HK\$6.5 million Net (i.e. HK\$3.5 million in the example) may consist of **equity** in the property and/or **debt secured by a mortgage over it**. Any such excess or surplus over the minimum HK\$6.5 million Net **at the date of purchase** which is attributable to his **equity** in the property will be available to the Applicant/Entrant to make such use of thereafter as he wishes without loss of entitlement under the Scheme. In these Scheme Rules this excess or surplus over the minimum of HK\$6.5 million Net which is attributable to this equity in Real estate is referred to as “Surplus Equity” and may be increased or decreased **by the amount** by which the capital amount of the mortgage debt on Real estate under the

Scheme is reduced or increased by repayments or additional borrowing of capital **prior** to disposal or realisation of that Real estate. However, the sum of the increased Surplus Equity and the amount of any outstanding mortgage debt at any one time may not exceed the sum of the Surplus Equity and the mortgage debt at the time of purchase of that Real estate. An example of the operation of the portfolio maintenance requirements in paragraph 5.1(a)(iii)–(v) above is given below (all figures and transactions at Market value) :

2004 (1) *purchase of Real estate as Permissible investment assets for HK\$10M, of which HK\$2M is funded by a debt from a bank or financial institution in Hong Kong. Surplus Equity is therefore HK\$1.5M (HK\$10M – (HK\$6.5M + HK\$2M)).*

(2) *The Surplus Equity of HK\$1.5M is available to the Entrant and may be withdrawn from the Scheme in whole or in part, or used e.g. “spent” in whole or in part to provide security for an increase in the mortgage debt of HK\$2M to a maximum of HK\$3.5M. There will not be any Surplus Equity once and to the extent the Surplus Equity is withdrawn in whole.*

(3) *In this example, it will be a breach of the Scheme Rules if at any one time the sum of Surplus Equity and any outstanding mortgage debt exceeds HK\$3.5M.*

2006 (4) *On the facts at (1) above, the mortgage debt has by 2006 been repaid (a) in total or (b) as to 50%, by repayments in accordance with the terms of the mortgage prior to the sale or*

realisation of the Real estate on which it is charged.

The Surplus Equity is (in (a)) :

HK\$3.5M (HK\$1.5M + HK\$2M).

The Surplus Equity is (in (b)) :

HK\$2.5M (HK\$1.5M + HK\$1M).

2008 (5) *On the facts at (1) above, and assuming the mortgage debt by then has been reduced from HK\$2M to HK\$1M by repayments under the mortgage, the Real estate is then sold. The entire sale proceeds less*

(a) the amount necessary to redeem or discharge the mortgage i.e. HK\$1M; and

(b) the whole or any part of the Surplus Equity of HK\$2.5M (HK\$1.5M + HK\$1M) as the Applicant/Entrant so wishes;

MUST *(at least) be reinvested in Permissible investment assets. For the time periods for investment and the notification obligations see paragraph 7.2 and paragraph 7.4-7.5.*

(vi) All the relevant details of **all** material transactions including the acquisition, disposal, and charging of all Real estate must be proved to the satisfaction of the Director including documents such as contemporaneous Land Registry records and bank statements. The Director may require the Applicant/Entrant to obtain at the expense of the Applicant/Entrant and on the instructions of the Director a professional valuation report in writing from a qualified valuer registered with the Hong Kong Institute of Surveyors which can be relied upon by the Director. The valuation report shall be addressed and sent to the Director by this

qualified valuer. A copy shall be provided to the Applicant/Entrant. The Director may substitute the price provided by this qualified valuer as the Market value of the Real estate in place of any figure provided by the Applicant/Entrant. The Applicant/Entrant is also required to make a declaration to the Director every 12 months and as and when required by the Director to confirm that he is, and has remained since the date of the previous declaration (if any) the absolute beneficial owner of the property.

- (vii) The Director must be informed in writing within 7 working days of any changes regarding absolute beneficial ownership of, legal title to or any mortgage of the Real estate which qualifies under the Scheme.
- (viii) Rental income from the Real estate which qualifies under the Scheme may be paid to and retained by the Applicant/Entrant or as directed by him and should not be accounted for or ring-fenced under the Scheme.

(b) ***Specified financial assets***

- (i) The Applicant/Entrant wishing to invest in Specified financial assets, whether or not in combination with investment(s) in permissible Real estate, has to hold the investment in the Specified financial assets in a designated account in his own name to be operated by a single financial intermediary whose terms of appointment as financial intermediary are to include such technical, commercial and financial terms as the Director considers appropriate for the purposes of the Scheme. The financial intermediary and the Applicant/Entrant are required to enter into an agreement for the management and operation of the designated account which includes the terms set out at **Annex** to these Scheme Rules. The Applicant/Entrant by lodging an application for Approval-in-Principle or Formal Approval acknowledges that the terms and conditions which the Director may require

shall be of the essence of any such agreement (unless the Director otherwise agrees in writing) and override a different intention arising from or which might otherwise (apart from this requirement) arise from the provisions of the agreement regarding the appointment of the financial intermediary.

- (ii) The Applicant/Entrant must inform the Director in writing of the name and relevant details of his appointed financial intermediary, which must be :
 - (1) an authorised institution as defined in the Banking Ordinance; **or**
 - (2) a licensed corporation licensed to perform Type 1, 4 or 9 regulated activities under the Securities and Futures Ordinance.

The Specified financial assets may be managed on a self-directed basis by the Applicant/Entrant or at the discretion of the financial intermediary. The use of more than one financial intermediary at the same time is not permitted.

- (iii) Subject to any lien which the financial intermediary may have for unpaid fees or expenses in the ordinary course of the business under the Scheme in relation to Specified financial assets, the Applicant/Entrant must be and remain the absolute beneficial owner of the Specified financial assets and is required to prove to the satisfaction of the Director all the relevant details of the material transaction(s) by him or on his behalf on the designated account by providing documentary evidence. The Director may check with the Hong Kong Stock Exchange or other reputable information service for the Market value of any Specified financial asset at the date of any sale or purchase and may substitute such price as the Market value in place of any figure provided by the Applicant/Entrant.

- (iv) The Applicant/Entrant may change his designated account from one qualified financial intermediary to another qualified financial intermediary at any time, provided that his portfolio of Specified financial assets in his former account is transferred to the new account in its entirety save for any :
- (1) cash dividend income arising directly from the Specified financial assets; and
 - (2) interest income arising directly from the Specified financial assets.

The Applicant/Entrant must notify the Director in writing within 7 working days of any such change.

- (v) The Applicant/Entrant is required to transact only in the Specified financial assets which are listed in paragraph 4.1(b) and held in the designated account in his own name to be opened with a single financial intermediary for the purpose of the Scheme and to give written instructions to this effect in the contract with his financial intermediary. The Applicant/Entrant may switch between different types of Specified financial assets at any time. Except for the financial intermediary's lien for unpaid fees and expenses referred to in paragraph 5.1(b)(iii), the Applicant/Entrant is not entitled to charge, assign or create any interest in favour of a third party in any Specified financial assets held in the designated account (including cash dividends or interest income accruing in the designated account provided that these are still held in the designated account).
- (vi) The Applicant/Entrant may at any time withdraw from the designated account any cash dividend income or interest income arising directly from the Specified financial assets.

- (vii) An Applicant/Entrant may at any time dispose of or realise the value of the Specified financial assets which qualify under the Scheme but will only continue to be eligible and to qualify under the Scheme if he reinvests **NOT LESS THAN** the entire Market value of those Specified financial assets in Permissible investment assets.
- (viii) The Applicant/Entrant must ensure that his appointed financial intermediary notifies the Director in writing within 7 working days of the events referred to in paragraph 3 (1)-(7) of the compulsory terms set out in the **Annex** to be included in any agreement between the Applicant/Entrant and his financial intermediary.
- (ix) The Applicant/Entrant must also ensure that his appointed financial intermediary notifies the Director in writing within 14 working days after the first anniversary of the grant of Formal Approval to the Applicant/Entrant to join the Scheme, and within 14 working days after each subsequent anniversary if his financial intermediary still operates the designated account at such anniversary regarding the events referred to in paragraph 4 (1)-(2) of the compulsory terms set out in the **Annex** to be included in any agreement between the Applicant/Entrant and his financial intermediary.
- (x) Subject to the exceptions permitted by the Scheme, whether or not for bona fide commercial reasons the Applicant/Entrant must not whether on his own or in collusion with others including his financial intermediary, enter into, facilitate, or permit any transaction, agreement or arrangement, whether or not legally effective or binding, which in the opinion of the Director, directly or indirectly, has as its purpose or effect or one of its purposes or effects (other than de minimis), the removal of or reduction or diminution in the value or benefit of his portfolio of Permissible investment assets held in his designated account, or incur any indebtedness in any form whatsoever using the

investment portfolio as collateral for such indebtedness.

- (xi) The Applicant/Entrant is also required to make a declaration to the Director every 12 months and as and when required by the Director to confirm that he is, and has remained since the date of the previous declaration (if any) or for the period specified by the Director, the absolute beneficial owner of the Specified financial assets in the designated account maintained with the financial intermediary stated in the declaration.

6. Changes in the Value of Investment

- 6.1** The Applicant/Entrant is not required to top-up the value of his investment in either class of Permissible investment assets should its Market value fall below the requisite minimum level of HK\$6.5 million Net even in the event of a total loss.
- 6.2** With the exceptions for the amount required to redeem his outstanding mortgage on Real estate, Surplus Equity, and cash dividend income, interest income and rents arising directly from the Permissible investment assets, if any, the Applicant/Entrant is not allowed to withdraw or remove any appreciation from his portfolio of Permissible investment assets under the Scheme even if the subsequent Market value of those assets rises above the requisite minimum level of HK\$6.5 million Net. In other words, subject to those exceptions, the investment that qualifies the Entrant's entry to Hong Kong and continued stay in Hong Kong will be ring-fenced within the Scheme and must be reinvested under the Scheme Rules.

7. Other Relevant Requirements

- 7.1** An Applicant/Entrant is permitted to switch his Permissible investment assets from one class of Permissible investment assets to another (e.g. a switch from Real estate to Specified financial assets) if the ring-fencing

principle is adhered to, i.e. the entire proceeds from the disposal or realisation at Market value of the assets are reinvested with the exceptions referred to in paragraph 6.2 above.

7.2 Switches between Permissible investment assets must comply with the following rules:

(a) **Real estate to Real estate**

Not more than 3 calendar months may elapse between the date of the contract for sale of the Real estate being sold and the date of completion of the purchase of the reinvestment in Real estate.

(b) **Specified financial assets to Specified financial assets**

Not more than 14 calendar days may elapse between the date of the contract for the sale of the asset being sold and the date of the contract for the purchase of the reinvestment asset.

(c) **Real estate to Specified financial assets**

The date of the contract for the purchase of the reinvestment asset must be not more than (i) 2 calendar months after the date of the contract for the sale of the Real estate being sold, or (ii) 14 calendar days after the date of completion of the sale of the Real estate being sold, whichever is the earlier.

(d) **Specified financial assets to Real estate**

Not more than 2 calendar months may elapse between the date of the contract for the sale of the asset being sold and the date of completion of the purchase of the reinvestment in Real estate.

In the provisions set out in paragraph 7.2 above:

“date of the contract” means the date on which the agreement (whether written or unwritten) comes into legal effect;

“date of completion” means the date of payment on completion, or if payment is made by more than one instalment the date of payment of the last instalment;

the periods mentioned shall be calculated by excluding the first date referred to and including the last date referred to;

if the first and/or last day of any period would otherwise be a Sunday, a public holiday, a gale warning day or a black rainstorm warning day the first and/or last day shall instead be the next following working day and the period shall be extended accordingly.

- 7.3** During the period between completion of a sale and completion of a purchase mentioned in paragraph 7.2 above, the Applicant/Entrant must hold the sale proceeds in his sole name in (i) a Hong Kong Dollar deposit or current account held with a Hong Kong branch of a bank or financial institution licensed in Hong Kong; or (ii) in Hong Kong Dollar denominated money market funds authorised by the Securities and Futures Commission.
- 7.4** The Applicant/Entrant is required to notify the Director in writing within 7 working days respectively after the completion of the realisation and acquisition transactions in case of a switch from Real estate to Specified financial assets or vice versa, or a switch of Real estate.
- 7.5** An Applicant/Entrant must keep a contemporaneous record in writing of every change to his portfolio of Permissible investment assets and may be required to provide this record to the Director when applying for extension(s) of stay. The Applicant/Entrant shall also provide the Director with such information as may be required by the Director from time to time to establish the eligibility and entitlement of the Applicant/Entrant under the Scheme.

8. Entry, Stay and Extension

- 8.1** An individual who has obtained an Approval-in-Principle from the Director to enter Hong Kong under the Scheme will be initially allowed to remain in Hong Kong as a visitor for 3 months. If evidence of active progress in investment in Permissible investment assets for the purposes of the Scheme can be shown to the satisfaction of the Director, his visitor

status will be extended for another 3 months. Upon the Entrant furnishing proof to the satisfaction of the Director that the investment in Permissible investment assets has been completed, permission to stay as a non Hong Kong permanent resident will be granted for 2 years subject to the condition that the Entrant must continue to satisfy the requirements of the Scheme throughout this period. Further extensions for 2 years will be granted on the same conditions and on the same basis.

- 8.2** An Entrant is allowed to take up employment, be an office-holder, self-employed or join in or establish a business in Hong Kong. ~~No dependant of an Entrant may take up employment, be an office holder, self-employed or join in or establish a business in Hong Kong without the prior approval in writing of the Director. However, the dependant(s) of an Entrant may study in Hong Kong without the permission of the Director.~~
- 8.3** An Applicant/Entrant is required to give an Undertaking to the Director to abide by the Scheme Rules. The form of the Undertaking is set out in Part 12 of the application form prescribed by the Director. Without detracting from the serious penalties which may be imposed in the event of a breach of any of the conditions of stay imposed under the Immigration Ordinance or in respect of an untruthful declaration or statement made for the purposes of the Scheme, if an Entrant is found to have breached the Undertaking given by him, he, together with his dependants, will be required by the Director to leave Hong Kong within 2 months after the Director has determined that the Entrant has breached the Undertaking.
- 8.4** An Entrant and his dependants may apply to become permanent residents of Hong Kong after a period of continuous ordinary residence in Hong Kong of not less than 7 years and subject to any other relevant requirements under the Immigration Ordinance. Entrants of Chinese nationality who are permanent residents holding valid permanent identity cards may apply for HKSAR passports.
- 8.5** Some Entrants may not be able to fulfil the continuous ordinary residence requirement even after satisfying the Permissible investment asset

requirements under the Scheme for 7 years, e.g. they may have incurred periods of prolonged absence from Hong Kong which prevent continuous residence. In recognition of the contribution the Entrants have made to the local economy through investing in these Permissible investment assets in Hong Kong for at least 7 years, they may apply for and if granted obtain unconditional stay (which permits entry and stay in Hong Kong without being subject to any conditions or limit of stay) at the end of the seventh year, whereupon they would also be free to dispose of the Permissible investment assets under the Scheme in whatever way they wish.

- 8.6** Any person who makes or causes to be made to an immigration officer lawfully acting under the Immigration Ordinance, or in any document furnished to an immigration officer pursuant to the Immigration Ordinance, any false statement or representation which he knows to be false or does not believe to be true shall be guilty of an offence which carries serious criminal penalties, including imprisonment.
- 8.7** The Director has absolute discretion to approve or disapprove an application for residence made under the Scheme. Any investment in Hong Kong is and remains the sole decision and responsibility of the Applicant/Entrant. The Director and the Government of the Hong Kong Special Administrative Region shall not be liable to the Applicant/Entrant for any loss on any investment pursuant to the Scheme howsoever arising.

– END –

**Contract between Applicant/Entrant and Financial Intermediary
in respect of the Capital Investment Entrant Scheme (the Scheme)**

The contract between the Applicant/Entrant and the Financial Intermediary must contain the following specific provisions which (1) shall be of the essence of the contract and prevail in the events of any conflict or inconsistency between these essential provisions and the other terms of the contract, and (2) shall bear the same meaning as in the Scheme: -

1. The designated account of the Applicant/Entrant, opened with the Financial Intermediary and operated in accordance with the instruction of the Applicant/Entrant, shall only hold:

- (1) Specified financial assets (as defined and referred to in the Scheme Rules published by the Director of Immigration (the Director) for the purpose of the Scheme);
- (2) cash proceeds of sale or other realisation of Specified financial assets;
- (3) cash transferred to the designated account by the Applicant/Entrant for investment in Specified financial assets; and
- (4) cash representing cash dividends or interest accruing in the designated account.

2. All cash transferred to the designated account by the Applicant/Entrant and all cash proceeds of sale or other realisation of Specified financial assets shall be invested or re-invested in Specified financial assets in accordance with the Scheme Rules.

3. The Financial Intermediary shall notify the Director in writing^{Note 1} within 7 working days of acquiring actual knowledge of any of the following:

- (1) the Applicant/Entrant has withdrawn any assets from the designated account (other than cash dividends or interest accruing in the designated account);
- (2) any instruction from the Applicant/Entrant to withdraw any assets from the designated account (other than cash dividends or interest accruing in the designated account);
- (3) the Applicant/Entrant has not re-invested the proceeds of sale or other realisation of Specified financial assets in further Specified financial assets within the following period (or such other period as may be provided by the Scheme Rules then in force)–
 - (a) no more than 14 days may elapse between the date of the contract for the sale of the asset being sold and the

^{Note 1}The notification could be addressed to “Chief Immigration Officer, Other Visas and Permits Section, Immigration Department, 7/F, Immigration Tower, 7 Gloucester Road, Wan Chai, Hong Kong” (Telephone : 2829 3232, Fax : 2824 3287).

date of the contract for the purchase of the reinvestment asset;

- (b) in calculating the period mentioned in (a) above
 - (i) “**date of the contract**” means the date on which the agreement (whether written or unwritten) comes into legal effect;
 - (ii) the first date referred to shall be excluded and the last date referred to shall be included;
 - (iii) if the first and/or last day of the period would otherwise be a Sunday, a public holiday, a gale warning day or a black rainstorm warning day, the first and/or last day shall instead be the next following working day and the period shall be extended accordingly;
- (4) any instruction from the Applicant/Entrant to transfer the designated account or any assets in the designated account (other than cash dividends or interest accruing in the designated account) to any other Financial Intermediary or other person;
- (5) (Except for any lien to secure payment or the Financial Intermediary’s proper fees and expenses), the

Applicant/Entrant has charged, assigned or created any interest in favour of a third party in any assets in the designated account (including cash dividends or interest accruing therefrom, if any, provided that these are still held in the designated account);

- (6) the Applicant/Entrant has ceased to be the sole beneficial owner of all assets in the designated account (other than cash dividends or interest accruing in the designated account); and
- (7) any instruction by the Applicant/Entrant to close the designated account.

4. Within 14 working days after the first anniversary of the grant of Formal Approval to the Applicant/Entrant to join the Scheme, and within 14 working days after each subsequent anniversary if the Financial Intermediary still operates the designated account at such anniversary, the Financial Intermediary shall:

- (1) notify the Director in writing of the composition of the designated account at the relevant anniversary and the acquisition cost (exclusive of all dealing charges, commission and stamp duty) of the Specified financial assets held in the designated account at that date; and
- (2) confirm in writing to the Director that to the best of the Financial Intermediary's knowledge the Financial

Intermediary has complied fully with the reporting obligations set out above in respect of the 12 month period immediately before the relevant anniversary, or notify the Director in writing of all matters which should have been reported in respect of that period.

5. The Financial Intermediary shall promptly answer all queries addressed to it by the Director concerning the designated account and supply such documents (whether copies or originals) concerning the designated account as the Director requests. The Applicant/Entrant irrevocably authorises the Financial Intermediary to answer all such questions and provide such documents.

6. The expression “working day” in the above provisions means a day other than a Sunday, a public holiday or a gale warning day or a black rainstorm warning day (both as defined in section 71(2) of the Interpretation and General Clauses Ordinance (Cap.1 of the Laws of Hong Kong).

7. The Financial Intermediary shall supply to the Director^{Note 2} within 7 working days from the day it is made a copy of the contract between the Applicant/Entrant and the Financial Intermediary and within 7 working days a copy of every amendment or variation to such contract (but subject to the provisions of paragraph 9 below).

^{Note 2} The document could be addressed to “Chief Immigration Officer, Other Visas and Permits Section, Immigration Department, 7/F, Immigration Tower, 7 Gloucester Road, Wan Chai, Hong Kong” (Telephone : 2829 3232, Fax : 2824 3287).

8. These provisions set out at paragraphs 1 to 9 shall prevail over any other provisions in the contract between the Applicant/Entrant and the Financial Intermediary in the event of any conflict or inconsistency between them.

9. The above provisions shall not be altered without the written consent of the Director.