

Conducting Business in Hong Kong

1 Hong Kong Company Registration and Licensing

Hong Kong is renowned for being an easy place to set up a business. In under a week, and for few hundred Canadian dollars, your company can be up and running. Importantly, the same rules apply to local and overseas companies

Every business in Hong Kong is required by the Business Registration Ordinance to obtain a Business Registration Certificate within one month of commencing business for its principal office address. A Limited Company is the most commonly-used company type. This is a company which is incorporated in Hong Kong, which means that the owner can take advantage of all the tax benefits and concessions available to any fully incorporated business, including the Closer Economic Partnership Arrangement (CEPA), a free trade agreement with Mainland China.

There are two ways of establishing a private company in Hong Kong: incorporating a new company or buying a shelf (or existing) company. There are only 2 simple steps for setting up a company in Hong Kong,

- (1) incorporate your company at the Companies Registry.
- (2) register your company with the Inland Revenue Department.

Hong Kong's anti-money laundering guidelines, Know Your Customer, mean that banks may request identity and residence information for all beneficial owners of the company before they will open an account.

Licensing requirements may apply, depending on the industry and business concerned. For instance, financial institutions must be licensed by the Hong Kong Monetary Authority or firms intending to sell certain restricted goods will need appropriate licenses from the regulatory bodies responsible for the industry.

The Hong Kong companies are required to file an annual return within one month from the date of their Annual General Meeting (AGM).



2 Structure for a Hong Kong Limited Company

Hong Kong private limited company must have the minimum following:

1. One shareholder;
2. One director;
3. A company secretary;
4. A registered office address in Hong Kong;
5. An auditor; and
6. A business registration certificate.

Director

A director must be at least 18 years of age, must not be an undischarged bankrupt, must not be subject to a disqualification order. A private company can have a director that is a corporation, but under the new CO, a private company must have at least one director who is a natural person.

The same person can be the secretary, director, and shareholder of a company, except that the sole director of a company cannot also be the secretary of the company.

Company Secretary

A company secretary must be either an individual resident in Hong Kong or a company with a registered office or place of business in Hong Kong.

Business Registration Certificate

A one-stop Company and Business Registration Service has been launched by the Companies Registry and the Inland Revenue Department. Applications for both incorporation and business registration may now be undertaken simultaneously.

Registered office address in Hong Kong

A company's statutory records should be kept at its registered office. If they are kept at a different place, a notice must be filed with the Companies Registry.

Share Capital

There is no prescribed minimum paid-up capital. The concept of nominal or authorized share capital and nominal or par value will be abolished. Instead, the articles of the company with a share capital must include a statement of capital containing some prescribed information and the initial shareholdings.

3 Hong Kong Company Directors

Every company shall have at least one director who is a Hong Kong resident or Non Hong Kong resident. The management and control of a company lies with its directors and the directors may exercise all powers of a company.

Directors have various statutory duties and usually required to act honestly and use reasonable diligence in the discharge of the duties of their office and disclose potential conflict of interests. In addition, they shall ensure that there is proper accounting and record keeping to explain the transactions and financial position of the company and to enable true and fair profit and loss accounts and balance-sheets to be prepared and presented during the annual general meetings.

Whether you are an “active”, “in-active”, “shadow”, or a “sleeping” director, you are an agent of the company appointing you. This means you act for the company and in turn, the company is bound by your acts. It is important that you fulfill the key duties owed by Directors to a company as stipulated in the common law and the Hong Kong Companies Ordinance.

Directors shall not place himself in a circumstance where there is conflict between his interests and the company's. Directors should manage their companies with care, skill and diligence. Honesty and reasonable diligence are expected when directors carry out their duties.

As a Director, he/she is responsible to ensure the company complies with the requirements on time including Annual General Meeting (AGM) & Annual Return (AR), Keeping records of Statutory Registers and Reporting changes in Company Directors, Secretary, Auditors, and Managers.

In some cases, a foreign director and shareholder of a Singapore company may elect to appoint a nominee director to incorporate his entity, arrange account opening matters, or attend to board meetings.

Do note however that a Nominee Director has the same fiduciary duties as that of a regular director as mentioned in the Company's Act, including but not limited to duties to act honestly and in good faith, to avoid conflict of interest, to exercise care, skill and diligence and to not misuse powers and information.

4 Hong Kong Company Trust

A trust is the most generally used investment holding vehicles for privately to hold worldwide assets for the benefit of beneficiaries. A Hong Kong trust can provide a number of wealth planning benefits without giving rise to a Hong Kong taxation charge on offshore income or capital gains arising from the trust assets.

Hong Kong operates with a common law legal system. What's unique about such a system is the bifurcation of property rights. Property ownership can be separated into a legal interest and an equitable interest.

Having a legal interest, or legal title, means that a person owns the particular property in law. It usually also means that the legal owner's name(Agency) is registered on a Hong Kong company share certificate of ownership, or a register of that particular property. In contrast, an equitable interest entitles the equitable owner(Benefices) to a mere beneficiary interest in that particular property, in addition to other rights.

Where the property is held on trust, a trustee holds the legal title of the trust property, whereas the beneficiary has the equitable share certificate in the trust property. Using this structure, the trustee is responsible for managing the shareholder ship (for instance, exercising statutory compliance in shareholder capacity) for the benefit of the beneficiary.

The relatively simple trust law in Hong Kong is ideal for individuals and where appropriate, corporations, to establish trusts for the purpose of confidentiality, asset protection and tax structuring

In Hong Kong, unit trusts are one example of the use of trusts as investment vehicles. A unit trust is similar to a mutual fund, except that a trust vehicle is used to hold the investment portfolio. The beneficiaries of a unit trust are the unit holders.

In complex commercial transactions, trusts are often used to give security to a party in the form of the equitable interest of a property. Such property can include real assets or intangibles, like receivables. In some jurisdictions, a trust structure may confer tax savings.

5 Virtual office , Serviced office and Physical office in Hong Kong

Virtual offices or Serviced offices are a popular choice for newly arrived companies. Virtual offices provide a mailing address and a receptionist, who will answer the phone on behalf of your company. Serviced offices are available across the city, allow for short-term leases and often provide tenants with a range of secretarial services.

Leases of a Physical office are typically for two to three years with an option to renew. They should always come with a full tenancy agreement. Hong Kong's excellent public transport system means that companies can choose to locate in more affordable locations and remain easily accessible for clients and staff. Leases are typically for two to three years with an option to renew. They should always come with a full tenancy agreement.

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Hong Kong Useful Links

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The links below include websites of the Hong Kong SAR Government and external websites. We are not responsible for the contents of these websites.

Trade and Investment Links

- **Commerce & Economic Development Bureau** <http://www.cedb.gov.hk/>
- **Trade and Industry Department** <http://www.tid.gov.hk/>
- **InvestHK** <http://www.investhk.gov.hk/index.html>
- **Trade Development Council** <http://www.hktdc.com/tc-buyer/>
- **Other Economic and Trade Offices** <http://www.gov.hk/en/about/govdirectory/oohk.htm>
- **Hong Kong Monetary Authority** <http://www.hkma.gov.hk/eng/index.shtml>
- **HK Stock Exchanges & Clearing Ltd** <http://www.hkex.com.hk/eng/index.htm>
- **Tradelink** <http://www.tradelink.com.hk/eng/index.html>
- **CEPA** <http://www.tid.gov.hk/english/cepa/>

General Information on HK Government Department

- **HKSAR Government Information Centre** <http://www.gov.hk/tc/residents/>
- **Chief Executive's Office** <http://www.ceo.gov.hk/>
- **Legislative Council** <http://www.legco.gov.hk/>
- **Basic Law** <http://www.basiclaw.gov.hk/tc/index/index.html>
- **Laws of Hong Kong** <http://www.legislation.gov.hk/index.htm>

Discovering Hong Kong

- **Hong Kong Tourism Board** <http://www.discoverhongkong.com/us/index.jsp>

Global CPA Contact

A beautiful view of Global CPA Shanghai office

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4	Accountancy and Statutory Auditing in Hong Kong	Ellen	ellen@globalcpa.com.cn
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