III

Characteristics of the Hong Kong Bond Market

The SFC and, in particular, the HKMA continue to drive the development of the Hong Kong bond market, in line with global and regional trends, as well as changes in participants' expectations and behaviour. Since this Bond Market Guide was first issued in 2012, there have been and continue to be substantial changes in some of the market characteristics, not limited only to the regulatory environment.

As such, specific characteristics of the Hong Kong bond market are described in more detail in this chapter than in the previous Bond Market Guide.
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A. Definition of Securities

The principal definition of securities in Hong Kong, China can be found in the SFO. In addition, the HKMA sets out a definition of eligible securities for the CMU, while the Listing Rules of SEHK also contain a corresponding definition.

1. Definition in the Securities and Futures Ordinance

a. Section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance

Securities refer to

(i) shares, stocks, debentures, loan stocks, funds, bonds or notes of, or issued by, a body, whether incorporated or unincorporated, or a government or municipal government authority;

(ii) rights, options or interests (whether described as units or otherwise) in, or in respect of, such shares, stocks, debentures, loan stocks, funds, bonds or notes;

(iii) certificates of interest or participation in, temporary or interim certificates for, receipts for, or warrants to subscribe for or purchase, such shares, stocks, debentures, loan stocks, funds, bonds or notes;

(iv) interests in any collective investment scheme;

(v) interests, rights or property, whether in the form of an instrument or otherwise, commonly known as securities;

(vi) interests, rights or property which is interests, rights or property, or is of a class or description of interests, rights or property, prescribed by notice under section 392 of the SFO as being regarded as securities in accordance with the terms of the notice; or

(vii) a structured product that does not come within any of the paragraphs (ⅰ) to (ⅵ) but in respect of which the issue of any advertisement, invitation or document that is or contains an invitation to the public to do any act referred to in section 103(1) (a) of the SFO is authorized or required to be authorized under section 105(1) of the SFO;

but does not include

(i) shares or debentures of a company that is a private company within the meaning of section 11 of the CO (Cap 622);

(ii) any interest in any collective investment scheme that is

(a) a registered scheme as defined in section 2(1) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485), or its constituent fund as defined in section 2 of the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A);

(b) an occupational retirement scheme as defined in section 2(1) of the Occupational Retirement Schemes Ordinance (Cap. 426); or

(c) a contract of insurance in relation to any class of insurance business specified in the 1st schedule to the Insurance Companies Ordinance (Cap. 41);

(iii) any interest arising under a general partnership agreement or proposed general partnership agreement unless the agreement or proposed agreement relates to an undertaking, scheme, enterprise or investment contract promoted by or on behalf of a person whose ordinary business is or includes the promotion of similar undertakings, schemes, enterprises or investment contracts (whether or not that person is, or is to become, a party to the agreement or proposed agreement);

(iv) Any negotiable receipt or other negotiable certificate or document evidencing the deposit of a sum of money, or any rights or interest arising under the receipt, certificate or document;

(v) any bill of exchange within the meaning of section 3 of the Bills of Exchange Ordinance (Cap. 19) and any promissory note within the meaning of section 89 of that ordinance;

(vi) any debenture that specifically provides that it is not negotiable or transferable, excluding a debenture that is a structured product in respect of which the issue of any advertisement, invitation or document that is or contains an invitation to the public to do any act referred to in section 103(1) (a) of the SFO is authorized, or required to be authorized, under section 105(1) of the SFO; or

(vii) interests, rights or property which is interests, rights or property, or is of a class or description of interests, rights or property, prescribed by notice under section 392 of the SFO as not being regarded as securities in accordance with the terms of the notice.

b. Section 7 of Part 1 of Schedule 1 to the Securities and Futures Ordinance

References to securities of a corporation

In the SFO, a reference to securities (however described) as those of a corporation shall, unless the context otherwise requires, be construed as a reference to securities (having the applicable meaning, whether under section 1 of Part 1 of Schedule 1 to the SFO or otherwise) that are

i. issued, made available, or granted by the corporation;

ii. proposed to be issued, made available, or granted by the corporation; or

iii. proposed to be issued, made available, or granted by the corporation when it is incorporated.

2. Debentures in the Central Moneymarkets Unit Reference Manual

For bonds and other debt instruments to be cleared through the CMU, they must satisfy the criteria as set out in, among others, the CMU Reference Manual.

a. Central Moneymarkets Unit Instruments

CMU Instruments are money market and capital market instruments that are specified in the CMU Service Reference Manual as capable of being held within the CMU Service.

b. List of Central Moneymarkets Unit Instruments

(i) asset-backed securities,

(ii) equity-linked instruments,

(iii) fixed-rate certificates of deposit,

(iv) government bonds,

(v) floating-rate certificates of deposit,

(vi) bonds,

(vii) fixed-rate notes,

(viii) floating-rate notes,

(ix) commercial paper,

(x) mortgage-backed securities,

(xi) fixed-rate linked securities,

(xii) floating-rate linked securities,

(xiii) zero-coupon certificates of deposit,

(xiv) zero-coupon notes,

(xv) bills of exchange other than trade bills, and

(xvi) any other money market and capital market instruments as the HKMA may specify from time to time.

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3. Definition in the Stock Exchange of Hong Kong Listing Rules

A corresponding definition of debt securities is contained in Rules 1.01 and 37.58 of the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (Listing Rules), for the purposes of the Professional Bonds market.

i. Debt securities refers to debenture or loan stock, debentures, bonds, notes, and other securities or instruments acknowledging, evidencing, or creating indebtedness, whether secured or unsecured, and options, warrants, or similar rights to subscribe or purchase any of the foregoing and convertible debt securities.

B. Types of Bonds and Notes

All Government bonds and most of the corporate bonds are eligible for clearing in the CMU and maintained in book-entry form.

EFBNs and Government Bonds are in scripless form, while other paper is either bearer or registered and held in physical form, represented by either definitive or global notes.

The most common currencies in which bonds are denominated are the Hong Kong dollar, offshore Chinese renminbi, euro, and US dollar.

1. Bonds and Notes Issued by Public Entities

In Hong Kong, China, bonds and notes issued by public entities include those issued by the Government of the Hong Kong Special Administrative Region of the PRC, the HKMA as the de facto central bank and representative of the government, statutory boards, and other government-related corporations.

a. Government Bonds

The Government Bond Programme, consisting of the Institutional Bond Issuance Programme and the Retail Bond Issuance Programme, was established in 2009 in order to promote the sustainable development of the local bond market.

Government Bonds are issued under the Loans Ordinance (Chapter 61 of the Laws of Hong Kong) and the principal amount of the bonds and all interest and charges thereon will be payable out of the Bond Fund set up under the Public Finance Ordinance (Chapter 2 of the Laws of Hong Kong).

i. Institutional Bond Issuance Programme

Institutional bonds of 3 years, 5 years, 10 years, and 15 years are issued regularly as announced in the half-yearly tentative issuance schedule determined by the government.

As of January 2015, new issuance of 2-year Government Bonds had ceased, with new issuance of Government Bonds only for tenors of 3 years and above. The shorter-tenor spectrum will instead be covered by EFNs (see below).

Some of the bonds issued under the government's Institutional Bond Issuance Programme are also listed on SEHK.

ii. Retail Bond Issuance Programme

Retail bonds are issued as the government may determine. Since 2011, the government, through the HKMA as its representative, has been issuing so-called iBonds on an annual basis. iBonds are 3-year inflation-linked bonds aimed only at residents of Hong Kong, China, with a maximum issue size of HKD10 billion and a minimum denomination of HKD10,000.

Some retail bonds are listed on SEHK (please see also section I in this chapter).

b. Exchange Fund Paper (Bills and Notes) Issued by the Hong Kong Monetary Authority

The EFBN Issuance Programme ensures the supply of a significant amount of high-quality Hong Kong dollar debt paper, which can be employed as trading, investment, and hedging instruments. Authorized Institutions that maintain Hong Kong dollar clearing accounts with the HKMA may use their holdings of EFBNs to borrow Hong Kong dollars overnight from the discount window.

i. Exchange Fund Bills

The EFB Programme was introduced in March 1990. Bills of 91 days (or 90 or 92 days as the calendar may fall), 182 days, and 364 days are regularly auctioned by public tender (please see Section E).

ii. Exchange Fund Notes

The EFN Programme commenced in 1993. EFNs are HKD-denominated, fixed-income debt securities issued by the government under the Exchange Fund Ordinance (Chapter 66 of the Laws of Hong Kong) and for the account of the Exchange Fund.

EFNs were originally issued with tenors of 2 years, 3 years, 5 years, 7 years, 10 years, and 15 years at such times as the HKMA determined. Notes of other maturities may be offered from time to time at the discretion of the Financial Secretary. EFNs are issued in a denomination of HKD50,000 in computerized book-entry form only.

The issuance of EFNs and Government Bonds has been streamlined to minimize overlap in longer tenors. Starting from January 2015, the HKMA has stopped new issuance of EFNs of tenors of 3 years or above, while 2-year EFN issuance continues. At the same time, new issuance of 2-year Government Bonds has ceased and new issuance of Government Bonds will only be for tenors of 3 years and above.

To enhance the liquidity of the secondary market of EFNs and facilitate access by retail investors to the EFN market, the HKMA lists EFNs on SEHK.

The HKMA publishes indicative pricings for EFBNs two times a day. The indicative pricings are calculated daily by Reuters based on indicative bid and ask quotes as of 11 a.m. and 4 p.m. (Hong Kong, China time) provided by 12 Eligible Market Markers designated by the HKMA. EFBs are quoted based on yields and EFNs are quoted based on prices. The indicative price for each of the benchmarks is calculated by taking the arithmetic mean of the middle eight quotes from the Eligible Market Makers after excluding the two highest and two lowest quotes. The indicative pricings are calculated and published via major news wire agencies at 11:30 a.m. and 4:30 p.m. (Hong Kong, China time) on every trading day for EFBNs. In addition, indicative mid-yield and mid-price quotes are posted for off-the-run EFB and EFN issues, respectively.[37]

c. *Government-Related Bonds*

i. Statutory Bodies

A number of statutory bodies in Hong Kong, China, including Airport Authority Hong Kong, Hong Kong Housing Authority, and Kowloon and Canton Railway Corporation regularly issue bonds in the Hong Kong bond market.[38]

ii. Government-Related Corporations

Examples of issuers considered government-related corporations who regularly issue bonds are, e.g., the Bauhinia Mortgage-backed Securities Limited, the Hong Kong Mortgage Corporation, the Hong Kong Link 2004 Limited, the Kowloon-Canton Railway Corporation, and the MTR Corporation Limited.

2. Bonds and Notes Issued by the Private Sector (Corporate Bonds)

Corporate bonds and notes are typically issued by Authorized Institutions, listed or unlisted local corporates, multilateral development banks (MDBs), or non-MDB overseas borrowers.[39] Non-MDB borrowers include foreign corporates and governments, who may issue debt securities in either Hong Kong dollar or foreign currencies.

Debt securities issued in the Hong Kong, China capital market take many forms and formats. In addition to straight bonds with longer tenors, corporate issuers may issue floating rate notes, index-linked bonds, or loan stocks.

3. Issuance Programs

Issuance programs, typically medium-term note (MTN) programs, are well established and widely accepted in the Hong Kong bond market, and are the most preferred issuance option for issuance to professional investors, both in the domestic and international segments. Issuers include domestic corporates, as well as the

[37] Please also see the HKMA website at http://www.hkma.gov.hk/eng/key-functions/international-financial-centre/debt-market-development/exchange-fund-bills-notes.shtml
[38] The government owns 75% of MTR Corporation, the rest is owned by the public.
[39] MDBs include the African Development Bank, Asian Development Bank, Council of Europe Social Development Fund, European Bank for Reconstruction and Development, European Company for the Financing of Railroad Rolling Stock, European Investment Bank, Inter-American Development Bank, International Bank for Reconstruction and Development, International Finance Corporation, and the Nordic Investment Bank.

Government and government-related corporations. Government Bonds and EFBNs (mentioned earlier) are in fact issued under programs.

Note issuance programs are subsumed under bonds, notes, and (where the issuer is a corporation) debentures in the definition of securities in Schedule 1 to the SFO.

MTN are debt papers issued on a medium-term basis, with tenures of more than 1 year, and up to, e.g., 30 years, and are redeemable at par on maturity. MTN not only give funding flexibility to issuers but also represent the most common format of bond and note issuance in the international bond market. This means that larger and regular issuers, as well as Institutional Investors and intermediaries, are likely to be familiar with note issuance programs and related practices. At the same time, it is expected that potential issuers may benefit from reusing or adopting existing documentation or information on disclosure items.

4. Offshore Renminbi Bond Issuance

The first offshore renminbi bond was issued in Hong Kong, China in 2007. The renminbi bond market in Hong Kong, China, or the "dim-sum" bond market, has since developed steadily. Over the years, the range of issuers in the renminbi bond market in Hong Kong, China has broadened from the sovereign (e.g., Ministry of Finance) and banks in the PRC to include financial institutions and corporates from different parts of the world (as well as corporates from the PRC beginning in 2011). At the same time, the range of investors has widened from institutional and private wealth investors to include sovereigns, banks, corporates, and retail investors.

5. Securitization

A wide range of asset classes are available for securitization. The two main asset classes securitized are (i) residential and commercial mortgages, and (ii) HKMA claims on central governments and central banks.

For instance, the Hong Kong Mortgage Corporation, established by the HKMA, and the Hong Kong Link 2004 Limited were set up to facilitate the securitization of residential mortgages and toll facilities, respectively.

To promote the development of the local debt market, authorities have introduced a number of new products, expanded and improved market infrastructure, and provided a tax and regulatory environment conducive to market development.

C. Money Market Instruments

Money market instruments are short(er) term debt instruments issued by either HKMA or by the private sector. Money market instruments are generally limited to instruments with a maturity of less than one year.

The more common money market instruments observed in the Hong Kong, China capital market are shown by issuer type below.

1. Issued by the Government or Government Entities

a. Exchange Fund Bills

EFBs are issued by HKMA, as representative of the Hong Kong Government, for the account of the Exchange Fund under the Exchange Fund Ordinance (Chapter 66 of the Laws of Hong Kong). In the money market, EFBs may be used by Authorized Institutions to obtain discount funding or be used as collateral for repo transactions. Please also see Section B.1 for further details.

2. Issued by the Corporate Sector

a. Certificates of Deposit

A certificate of deposit is a short to medium-term instrument, which represents the deposit of a defined amount (face value) of money with an Authorized Institution. Certificates of deposit may be traded in the money markets, and are payable to the bearer or registered owner when due.

Certificates of deposit are not equivalent to a time deposit with Authorized Institutions and, hence, do not enjoy the same protection under the Deposit Protection Scheme in Hong Kong, China, as a time deposit would.

b. Commercial Paper

Commercial paper is a short-term unsecured note issued by corporations with original tenors from 1 month to 1 year. In practice, commercial paper is often rolled over upon maturity until the expiry of an issuance program.

Commercial paper is issued in bearer or registered form by corporates and Authorized Institutions.

D. Segmentation of the Market

Table 3.1: Segmentation of the Market—Outstanding Value of Hong Kong Dollar Debt Securities in Hong Kong, China by Type of Bond or Note

Type of Instrument	Type of Bond or Note	Outstanding Amount (HKD million)	% of Total
Government Debt Securities	Exchange Fund Bill	769,821	50.49
	Exchange Fund Note	58,600	3.84
	Government Bond	100,400	6.59
	Subtotal	**928,821**	**60.92**
Nonpublic Segment	Authorized Institutions	242,593	15.91
	Local Corporates	141,659	9.29
	MDBs	5,301	0.35
	Non-MDB Overseas Issuers	162,133	10.63
	Statutory Bodies and Government-owned Corporations	44,050	2.89
	Subtotal	**595,736**	**39.08**
Total		**1,524,558**	**100.00**

MDB = multilateral development bank.
Note: Data as of end-December 2015.
Sources: Hong Kong Monetary Authority. *Statistics & Manuals*. https://www.cmu.org.hk/cmupbb_ws/eng/page/wmp0160/wmp016001.aspx; Hong Kong Monetary Authority. *HKMA Quarterly Bulletin March 2016*. Hong Kong, China.

To provide a better illustration of the segmentation of the different types of debt securities issued in the Hong Kong bond market, Table 3.1 is intended to give an overview of the outstanding value by the types of instruments detailed in Section B.

Detailed information on the outstanding value of bonds and notes, new issuances per period, or specific statistics on the Hong Kong bond market can be found on the websites of the HKMA (see also Table 3.1) and the Government Bond Programme, as well as on *AsianBondsOnline*, a bond information portal operated by ADB under an initiative of ASEAN+3. Appropriate links are also provided in Chapter VII (Market Size and Statistics) and Appendix 2: Practical References.

As a result of the broad availability of comprehensive current bond market statistics for Hong Kong, China, this Bond Market Guide does not carry detailed statistics any more since the shelf life of said statistics is limited and may not be of use to the reader soon after publication. Please see the explanation and links provided in Chapter VII.

E. Methods of Issuing Bonds and Notes (Primary Market)

There are a number of different methods to issue debt securities in the Hong Kong bond market for both government and private sector instruments.

1. Government Bonds

a. Institutional Bond Issuance Programme

Government bonds are issued through competitive conventional tender or switch tender. Tenders must be submitted through Primary Dealers as announced by the government from time to time.

Both types of tenders will be on a competitive bid–price basis subject to a minimum bid of HKD50,000. Each tender bid must be for an integral multiple of the minimum denomination of the bonds.

At least four business days before each tender date, the HKMA will announce the amount of government bonds on offer. All tender applications must reach the HKMA during tendering hours on the tender date. Primary Dealers must indicate the quantity of the Government bonds applied for and the bid price. Tenders accepted will be allotted in descending order of the price bid from the highest to the lowest accepted price. Successful bidders will be allotted Government bonds at the price at which they bid. The tender results, including the amount of Government bonds allotted and the average accepted price, will be announced on the tender date on the Reuters screen (HKGBINDEX), Bloomberg (GBHK <GO>), the Government Bond Programme website (www.hkgb.gov.hk), and any other means as advised by the HKMA.

Underwriting arrangements are in place for conventional tenders by which Primary Dealers may be required to subscribe for bonds that have not otherwise been subscribed pursuant to valid tenders.

For switch tender, successful bidders will additionally be required to deliver a pre-specified issue of the bonds to the government for early redemption at a pre-specified price. The nominal value of the pre-specified issue of the bonds to be delivered by a successful bidder shall equal the nominal value of the bonds allotted to the bidder at that switch tender.

Tenders must be submitted through Primary Dealers by 10:30 a.m. on the relevant tender day. Tender results will be announced not later than 3 p.m. on the relevant tender day. Settlement will be effected on the first business day immediately following the relevant tender day.

The Government Bonds issued will subsequently be listed on SEHK (please also see Section H. in this chapter).

For further details, please refer to the most recent Information Memorandum of the Government Bond Programme.[40]

b. Retail Bond Issuance Programme

Government Bonds are offered to retail investors under the Retail Bond Issuance Programme. Retail investors can apply for the Government Bonds through a placing bank, an HKSCC or CCASS clearing participant, or custodian participants.[41]

For further details, please refer to the Retail Bond Issuance Programme—Programme Circular of the Government Bond Programme, which is published on the Hong Kong Government Bond website.[42]

2. Exchange Fund Bills and Notes issued by the Hong Kong Monetary Authority

EFBs are issued through competitive tender on a bid–yield basis, whereas EFNs are issued either through competitive tender on a bid–price basis or by noncompetitive tender. The tender and underwriting arrangements are similar to those applicable to the Government Bond Programme.

Retail investors may obtain the indicative bid and offer prices of EFBNs quoted by major banks in Hong Kong, China at the CMU Bond Price Bulletin website developed by the HKMA's CMU (www.cmu.org.hk).

For details, refer to the most recent Information Memoranda of the EFBN Programmes published on the HKMA website.[43]

3. Bonds Issued by Other Statutory Bodies and Government-Owned Corporations

The methods of issuance of bonds or notes issued by Hong Kong, China's statutory bodies and government-owned corporations are similar to those of issuing corporate bonds and notes and are stated in the next section.

4. Corporate Bonds and Notes

Private sector entities generally adopt one of the following methods to issue corporate bonds and notes:

(a) a public offer for bonds intended to be sold to the public, or

[40] Hong Kong Monetary Authority. Government Bond Programme—Information Memorandum of the Institutional Bond Issuance Programme (May 2016). http://www.hkgb.gov.hk/en/others/documents/Information_Memorandum.pdf

[41] Further information on CCASS can be found at https://www.HKEX.com.hk/eng/market/clr/secclr/ccass3/ccass3.htm

[42] See http://www.hkgb.gov.hk/en/retail/Programme_Circular.html

[43] See http://www.hkma.gov.hk/eng/key-functions/international-financial-centre/debt-market-development/exchange-fund-bills-notes.shtml

(b) a private placement for bonds intended to be sold to a small group of investors.

There are some differences in the requirements for the two methods. For instance, a more comprehensive and detailed prospectus is generally required for a public offer whereas a relatively simple form of offer document or term sheet suffices for a private placement.

For details on the legal requirements, please refer to Part II and Part XII of the CWUMPO. The regulatory framework and its relevant processes for corporate bond and note issuance is also described in some detail in Chapter II.

F. Governing Law and Jurisdiction (Bond and Note Issuance)

Governing law and the jurisdiction for specific service provisions in relation to a bond or note issuance may have relevance, since potential issuers may consider issuing under the laws or jurisdiction of a market other than the place of issuance. The choice of governing law or the contractual preferences of stakeholders can affect the accessibility to a specific investor universe that may otherwise not be accessible if a bond or note were issued under the laws of the place of issuance.

Unless otherwise specified in the prospectus, offer document, or term sheet, the issuance of bonds and notes in Hong Kong, China is governed by and construed in accordance with the Laws of Hong Kong.

The Basic Law of Hong Kong, as well as the stated views of the regulatory authorities and market institutions, permit the use of governing law or jurisdictions other than that of Hong Kong, China for transactions in domestic financial markets. Parties involved in a bond or note issuance may select the governing law or jurisdiction(s) according to their contractual preferences, provided that such provisions do not contravene the Laws of Hong Kong.

Should the parties involved in a bond or note issuance choose to use the laws of Hong Kong, China, the jurisdiction of the issuance would fall to the courts by default. If, in contrast, parties involved in the issuance agree on another governing law, the parties would also have to specifically determine the jurisdiction of a court in which provisions of the bond or note issuance could be enforced and any disputes would be heard and decided.

In any case, the actual use of governing laws or jurisdictions other than those of Hong Kong, China may be subject to clarification or legal advice from a qualified law firm, as may be necessary.

G. Language of Documentation and Disclosure Items

In Hong Kong, China, contracts, bond, and note issuance documentation and disclosure items, applications to and approvals from market institutions as may be necessary, and correspondence with regulatory authorities and market institutions are expected to be in English.

Documentation and disclosure items may be drawn up in Chinese as well, and relevant documentation and offer documents to retail investors are likely to be issued in Chinese.

The prospectus for a public offer of bonds or notes must either be in English with a Chinese translation, or in Chinese with an English translation. Summary disclosure materials for a public offer must be issued both in English and Chinese but may be distributed in separate language versions. If separate language versions are used, a statement must be included in the other language in a prominent place on the front page or cover that a version is available in the other language and where copies can be obtained.[44]

H. Registration of Debt Securities

There is no concept of a formal registration of debt securities with a dedicated institution in the bond market in Hong Kong, China. Instead, the term registration is solely used in the context of effecting changes in ownership of bonds and notes in the CCASS or CMU.

The typical functions associated with a formal registration concept, such as provision of bond information, continuous disclosure and the determination of a fair market price, are carried out by specific institutions that are mandated for such functions, including the HKMA-CMU, HKEX-CCASS, the SFC, and commercial securities pricing providers. The roles of the regulatory authorities and market institutions and their corresponding functions are explained elsewhere in this document.

I. Listing of Debt Securities

A listing of debt securities is possible in Hong Kong, China for the purpose of trading or for the purpose of profile listing, e.g. to achieve visibility or to reach out to a different or larger investor universe.

The listing of a bond or note is not a regulatory requirement by the SFC or the HKMA, in the case of both domestic and foreign issuers, and including in the event of a public offer.

As an example, recent RMB bonds tend to be unlisted, but are featuring respective tranches for both retail and Institutional Investors. When considering a listing, issuers may consider the trade-off between costs and benefits, such as listing fees versus any achievable visibility for the bond or note. In contrast, fund managers may appreciate access to official pricing on SEHK, but may also be able to determine a realistic price through modelling in-house, if such capabilities exist.

For bonds to be listed on SEHK, issuers should also observe the requirements of the Listing Rules (official name Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited), as well as Parts II and XII of the CWUMPO, including section 44B.[45]

1. Listed and Traded Debt Securities

Bonds and notes can be listed and traded on SEHK, while MTN programs may be listed only. The issuer may choose to issue listed bonds by submitting a listing application to SEHK for the listing of and permission to deal in the bonds on SEHK,

[44] According to SFC Guidelines on Use of Offer Awareness Materials and Summary Disclosure Materials in Offerings of Shares and Debentures under the Companies Ordinance (February 2003). The most recent PDF is available at http://en-rules.sfc.hk/en/display/display_main.html?rbid=3527&element_id=2408
[45] See http://www.hklii.org/eng/hk/legis/ord/32/s44B.html

and satisfy certain qualifications for listing as stated in Chapters 22–37 of the Listing Rules.[46]

Issuers having debt securities listed or seeking to list debt securities on SEHK must comply with the requirements set out in the Listing Rules as promulgated by SEHK. Chapter 29 covers tap issues, debt issuance programs, and asset-backed securities. Chapter 36 covers requirements for overseas issuers.[47]

If a public offer of debt securities—pursuant to the prescriptions in the CWUMPO as detailed in chapter II.E—is to be listed on SEHK, the authorization of the prospectus(es) (required under section 105 of the SFO) accompanying the offer will be performed by SEHK, instead of by the SFC (see also Chapter II.F). As such, the prospectus (or constituent prospectuses in the event of a dual prospectus approach) and any supporting documents need to be submitted to SEHK together with the listing application. The listing applicant is regarded as having sent a copy of its application and ongoing disclosure materials to the SFC if it submits them to SEHK and authorizes SEHK to file them with the SFC on its behalf (Securities and Futures [Stock Market Listing] Rules [Cap. 571V]).

In addition, an issuer may obtain a listing of debt securities to professional investors only, pursuant to Chapter 37 of the Listing Rules.

To enhance the liquidity of the secondary market of EFNs and facilitate access by retail investors to the EFN market, the HKMA lists EFNs on SEHK. EFN trading on SEHK began on 16 August 1999. The listing and trading of EFNs has paved the way for the listing and trading of Hong Kong dollar bonds issued by other government-owned corporations.

2. Listing on the Professional Bonds Market

SEHK Listing Rules provide a listing facility for bonds and notes aimed exclusively at professional investors. This facility is officially known as Debt Issues to Professional Investors Only, and typically is referred to as Professional Bonds (please also see Section N in this chapter). In its circulars, the SFC also refers to these professional bonds as Chapter 37 Bonds.

Debt securities under the Listing Rules for Professional Debts (Chapter 37) are targeted at professional investors only who are sufficiently sophisticated to determine whether a listing document provides them the necessary information to make an informed investment decision. These debts are offered to professional investors as defined in Part 1 of Schedule 1 to the SFO, including authorized financial institutions, insurance companies and high net worth individuals or corporations having an investment portfolio of not less than certain prescribed amounts.

Professional Debts will not normally be quoted or traded on SEHK; instead, they are still traded OTC and are inaccessible to retail investors. In most cases, the purpose of listing bonds, notes, or debt issuance programs on SEHK is indeed for profiling for regulatory and price discovery purposes as mentioned above.

A profile listing is a listing without trading on an exchange. The objective of the listing is to make bonds and notes visible and more information available to investors via a recognized listing place, particularly those investors with more restrictive mandates,

[46] Issues of debt securities where only part of the maximum program's principal amount or aggregate number of securities under the issue is issued initially and a further tranche or tranches may be issued subsequently.
[47] For details, refer to Chapters 22–37 of the Listing Rules, which are available at http://www.HKEX.com.hk/eng/rulesreg/listrules/mbrules/vol1_4.htm

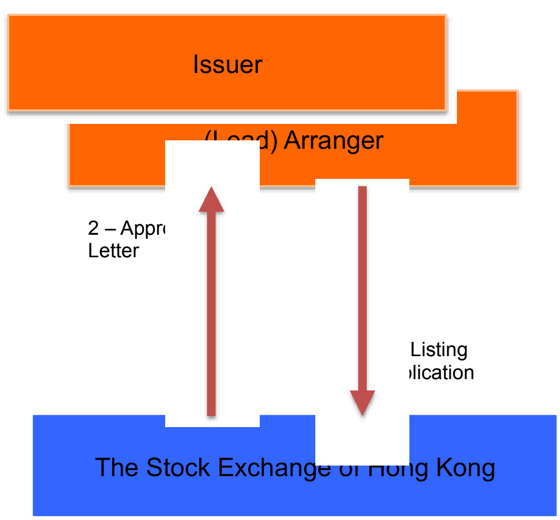
such as mutual and pension funds. A profile listing at a designated listing place can ensure the flow of continuous disclosure information and possibly even reference pricing.

At the same time, a listing for profiling of AMBIF bonds and notes on SEHK may not preclude a simultaneous listing for profiling for the benefit of (certain) professional investors in another jurisdiction.

While the listing of Professional Debts on SEHK is available for both domestic and international bonds and notes issued in Hong Kong, China, and SEHK Listing Rules do not prescribe a particular clearinghouse or place of settlement, the inclusion for settlement in CMU is required to mark a bond or note as a domestic instrument. This is signified by using the prefix “HK” in the International Securities Identification Number of the bond or note. In contrast, bonds or notes issued through ICSDs listed on the Professional Bonds market will carry the prefix “XS.”

For Professional Debts to be listed on SEHK, HKEX is generally supportive of using harmonized documents, as long as its application procedures and all listing requirements are fulfilled. Such harmonized documents are available for issuances under AMBIF. Further details are provided in Chapters IX and X.

Figure 3.1: Listing for Profiling on the Stock Exchange of Hong Kong Limited



Source: ABMF SF1.

To be listed under Debt Issues to Professional Investors Only (Professional Bonds market on SEHK) the steps outlined in Figure 3.1 need to be taken by either the issuer or the issuer’s agent.

Step 1 – Submit Application for Listing or Application for Confirmation of Eligibility to the Stock Exchange of Hong Kong Limited

Any issuer (or their agent) intending to list on SEHK will need to submit an Application for Listing to SEHK, accompanied by the required documentation and disclosure items for the type of listing selected.

At the same time, issuers may choose to first obtain confirmation on the eligibility of their bonds or notes to be listed for profiling prior to applying for a formal listing. For such determination of eligibility, an issuer needs to submit the supporting documents in draft form, as specified in Listing Rule 37.35.

For full listing approval, an issuer or their agent needs to submit the complete set of supporting documents including the final Offering Circular.

The listing criteria for issuers on the Professional Bonds market have been determined as follows:

1. An issuer needs to be a state, supranational, body corporate, or trust; if the issuer is a body corporate it must be validly incorporated or established in its place of incorporation or establishment).
2. An issuer (entity) needs to have net assets of at least HKD100 million.[48]
3. An issuer needs to be able to provide audited accounts for the 2 years before the listing application is made up to a date at most 15 months before the intended date of the listing document.[49]

In addition, the following listing criteria for debt securities have to be met:

1. The bonds and notes must have been authorized through the issuer's governing bodies.
2. The minimum denomination of bonds and notes must be HKD500,000 or the equivalent amount in foreign currency.

Chapter 37 of the Listing Rules allows issuers to tailor their documentation to professional investors who are sufficiently sophisticated to make their own judgment on whether the listing document provides them with the necessary information. In consequence, Rule 37.29 prescribes for the listing application to contain documents and simplified disclosure items that professional investors would customarily expect. It need not comply with Appendix 1 of Part C of the Listing Rules.

As part of the listing application process, the issuer will have to specify their intended listing date for the bonds and notes in the listing application.

Step 2 – Stock Exchange of Hong Kong Limited Checks Application for Listing / Issues Letter of Eligibility or Approval

SEHK will review the request for eligibility or the application, as the case may be, following the submission of the relevant and complete information in documentation and disclosure items, as required under the respective Listing Rules (Step 1). At the same time, SEHK may, at its discretion under the Listing Rules, request supplementary information from the issuer, or arranger or underwriter, if so required for the review process.

[48] This criterion does not apply for issuers already listed on SEHK or another exchange, state corporations, or supranational issuers, or for a special purpose vehicle formed for listing asset-backed securities.
[49] This criterion does not apply for issuers already listed on SEHK, state corporations, or supranational issuers, or for a special purpose vehicle formed for listing asset-backed securities.

In cases of an issuer seeking a confirmation of eligibility to list a bond or note for profiling, SEHK will advise an issuer whether the issuer and its bonds and notes are eligible for listing, typically 5 business days after receipt of the issuer's application, as per Listing Rule 37.36; SEHK will issue a Letter of Eligibility for this.

Provided that an Application for Listing is in order and the necessary information has been provided, SEHK will issue an approval letter to the issuer or underwriter.

In practice, for applications that do not involve unusual features, SEHK will, under normal circumstances, issue the listing approval letter or eligibility letter within 1 business day for issuers that are already listed in Hong Kong, China, or within 2 business days for other issuers.

The listing of professional bonds and notes on the Professional Bonds market carries a one-off listing fee of between HKD7,000 and HKD90,000, depending on issue size and tenor. There is no recurring annual listing fee.

Step 3 – Actual (Effective) Listing

The issuance process for a listing is completed with the actual listing on the Professional Bonds market. The listing of a bond or note is effective upon the listing date stipulated in the listing approval letter, based on the original request by the issuer. There is no defined cooling-off period between listing approval and actual listing.

Should an issuer not fulfill any of the conditions set in the listing approval letter by the expected (stated) listing date, the issuer or their agent would have to submit a new listing application.

3. Listing of Debt Issuance Programs

The listing of debt issuance programs follows a process similar to the one described in section 2. The one-off listing fee for an MTN debt or note program is HKD15,000.

J. Methods of Trading Bonds and Notes (Secondary Market)

Bonds and notes issued in Hong Kong, China are predominantly traded in the OTC market. At the same time, bonds and notes may also be traded on SEHK, the exchange market in Hong Kong, China. Potential investor focus, participants, and choice of instruments may define the respective trading methods.

The individual methods are briefly described in the sections below and are further detailed in the applicable sections of Chapter IV.

1. Over-the-Counter Market

In Hong Kong, China, more than 99% of bonds and notes (by volume) are traded in the OTC market, either directly between counterparties or using the services of a bank, broker, or inter-dealer broker.

OTC-traded debt securities are either cleared and settled at CMU, or through an ICSD.

2. Exchange Traded Bonds and Notes

Trading of debt securities is also available on SEHK. These debt securities are listed on the main board of the exchange and traded in smaller denominations geared towards retail investors. While there is no minimum denomination requirement for retail debts set out in the Listing Rules, SEHK Trading Rule 525 stipulates that all interest-bearing securities are to be quoted in units of HKD100 of their nominal value.

Exchange traded debt bonds and notes are quoted and reported real time on SEHK, giving investors a continuous update on the value of their securities. Trading is facilitated by SEHK Exchange Participants, being securities firms who are governed by the SEHK Trading Rules.

The volume of exchange-traded debt securities remains marginal. Issuers continue to pursue a listing as part of their strategy to attract investor universes, provide disclosure or for general profiling purposes.

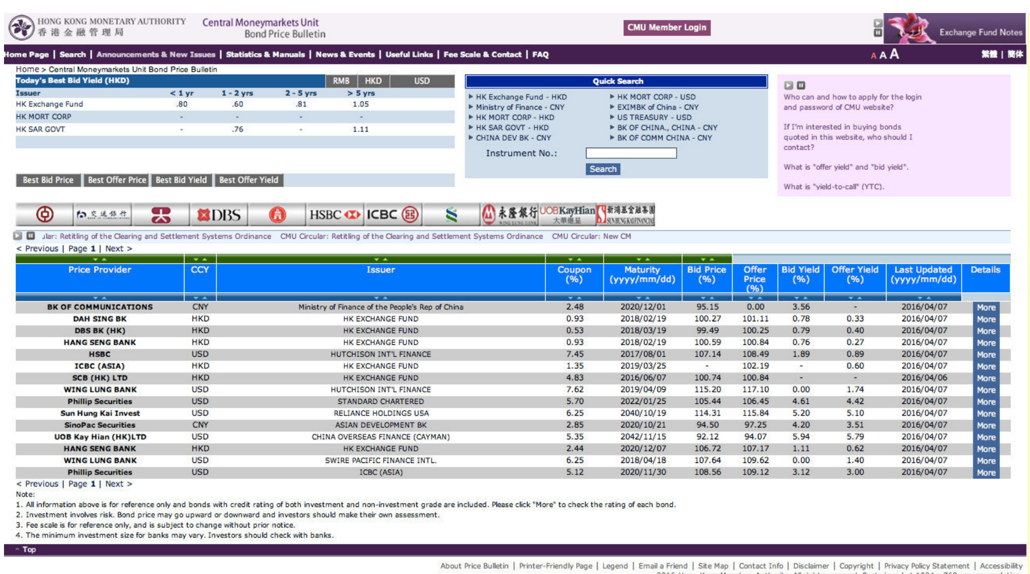
K. Bond and Note Pricing

At present, Hong Kong, China does not have a bond pricing agency, but real-time or reference bond and note prices are available from commercial securities pricing vendors. At the same time, pricing for bonds and notes is also provided by the domestic infrastructure providers for the debt securities covered under their respective remit.

1. Central Moneymarkets Unit

With the CMU Bond Price Bulletin, the HKMA provides a platform for reference pricing and information of debt securities included in CMU. The Bond Price Bulletin is freely accessible through the CMU web page (Figure 3.2).

Figure 3.2: Central Moneymarkets Unit Bond Price Bulletin



Price Provider	CCY	Issuer	Coupon (%)	Maturity (yyyy/mm/dd)	Bid Price (%)	Offer Price (%)	Bid Yield (%)	Offer Yield (%)	Last Updated (yyyy/mm/dd)	Details
BK OF COMMUNICATIONS	CNY	Ministry of Finance of the People's Rep of China	2.48	2020/12/01	95.15	0.00	3.56	-	2016/04/07	More
DAH SING BK	HKD	HK EXCHANGE FUND	0.93	2018/02/19	100.27	101.11	0.78	0.33	2016/04/07	More
DBS BK (HK)	HKD	HK EXCHANGE FUND	0.53	2018/03/19	99.49	100.25	0.79	0.40	2016/04/07	More
HANG SENG BANK	HKD	HK EXCHANGE FUND	0.93	2018/02/19	100.59	100.84	0.76	0.27	2016/04/07	More
HSBC	USD	HUTCHISON INT'L FINANCE	7.45	2017/08/01	107.14	108.49	1.89	0.89	2016/04/07	More
ICBC (ASIA)	HKD	HK EXCHANGE FUND	1.35	2019/03/25	-	102.19	-	0.60	2016/04/07	More
SCB (HK) LTD	HKD	HK EXCHANGE FUND	4.83	2016/06/07	100.74	100.84	-	-	2016/04/06	More
WING LUNG BANK	USD	HUTCHISON INT'L FINANCE	7.62	2019/04/09	115.20	117.10	0.00	1.74	2016/04/07	More
Phillip Securities	USD	STANDARD CHARTERED	5.70	2022/01/25	105.44	106.45	4.61	4.42	2016/04/07	More
Sun Hung Kai Invest	USD	RELIANCE HOLDINGS USA	6.25	2040/10/19	114.31	115.84	5.20	5.10	2016/04/07	More
SinoPac Securities	CNY	ASIAN DEVELOPMENT BK	2.85	2020/10/21	94.50	97.25	4.20	3.51	2016/04/07	More
UOB Kay Hian (HK)LTD	USD	CHINA OVERSEAS FINANCE (CAYMAN)	5.35	2042/11/15	92.12	94.07	5.94	5.79	2016/04/07	More
HANG SENG BANK	HKD	HK EXCHANGE FUND	2.44	2020/12/07	106.72	107.17	1.11	0.62	2016/04/07	More
WING LUNG BANK	USD	SWIRE PACIFIC FINANCE INTL.	6.25	2018/04/18	107.64	109.62	0.00	1.40	2016/04/07	More
Phillip Securities	USD	ICBC (ASIA)	5.12	2020/11/30	108.56	109.12	3.12	3.00	2016/04/07	More

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Note:
1. All information above is for reference only and bonds with credit rating of both investment and non-investment grade are included. Please click "More" to check the rating of each bond.
2. Investment involves risk. Bond price may go upward or downward and investors should make their own assessment.
3. Fee scale is for reference only, and is subject to change without prior notice.
4. The minimum investment size for banks may vary. Investors should check with banks.

Source: Hong Kong Monetary Authority. Central Moneymarkets Unit.
https://www.cmu.org.hk/cmupbb_ws/eng/page/wmp0100/wmp010001.aspx

2. Hong Kong Exchanges and Clearing Limited

There is no requirement under the SEHK Listing Rules for the market-making of exchange-traded bonds and notes. Nevertheless, HKEX provides real-time data services for trades and prices for debt securities that are traded on SEHK through its market data system for its securities market, the HKEX Orion Market Data Platform for Securities Market (OMD-C), which was launched in September 2013. OMD-C disseminates information on debt securities in the same manner as it does for all other types of securities traded on SEHK. OMD-C is accessible to its licensed users including end-users (e.g., brokerage firms) and information vendors who can redistribute the real-time data to their subscribers.

L. Transfers of Interest in Bonds and Notes

The transfer of title or interest in bonds and notes in the Hong Kong bond market can be evidenced through registration. Relevant details and distinctions are mentioned below.

1. Transfer of Entitlement and Ownership of Securities

a. At the Central Moneymarkets Unit

Transferees and transferors should send transfer instructions to the CMU for matching and settlement. The transfer of ownership becomes effective upon matching a debit instruction with the corresponding credit instruction and registration in the book entries in the securities accounts of the CMU Members within the CMU Service.

Retail bonds are usually represented by a single global bond issued in a principal amount equal to the total principal amount of the bonds. The placing banks will hold these bonds in their securities accounts with the CMU Service for and on behalf of individual investors. The CMU account holders are treated as the bondholders. Interest and principal payments will be made to the CMU account holders (placing banks). Individual investors hold their interests only indirectly in book-entry form through the securities accounts they hold with the placing banks. Individual investors also have to rely on the CMU Participants to enforce any rights against the issuer on their behalf.

b. At the Central Clearing and Settlement System of Hong Kong Securities Clearing Company Limited

HKSCC, a wholly owned subsidiary of HKEX, owns and operates CCASS. CCASS only provides clearing and settlement services for its Clearing Participants, such as brokers and custodians. Investors have to settle their trades through their securities brokers.[50]

Investors can open Investor Accounts in CCASS and become Investor Participants. Purchases and sales of securities on SEHK by Investor Participants and the resulting settlement continues to be handled by CCASS Clearing Participants (brokers). However, buying Investor Participants can transfer shares out of the accounts of Clearing Participants or Custodian Participants into their own accounts after settlement of the relevant transactions. Securities transfers out of the accounts of selling Investor Participants initiated by Clearing Participants or Custodian Participants must be affirmed by the Investor Participants concerned. If money settlement is involved, HKSCC will deliver electronic payment instructions to the Hong Kong Interbank Clearing Limited (HKICL) after completing a securities transfer. HKICL will then debit or

[50] For further information, please visit the HKEX FAQs at https://www.HKEX.com.hk/eng/global/faq/post%20trading.htm

credit the designated bank accounts of both Participants. HKSCC acts only as a facilitator of certain securities transfers. Investors continue to manage the settlement risks involved in these transactions.[51]

2. Entitlement Perfection against a Third Party (Finality of Transactions)

a. At the Central Moneymarkets Unit

The Payment Systems and Stored Value Facilities Ordinance (Cap. 584), formerly known as The Clearing and Settlement Systems Ordinance, protects the settlement finality of transactions effected through clearing and settlement systems designated by the HKMA from insolvency laws or other legislation. The CMU is deemed to have been designated under the Payment Systems and Stored Value Facilities Ordinance since 4 November 2004 and all transactions effected through the CMU have since enjoyed statutory backing for their settlement finality.

Real-time securities transfer transactions on the CMU Members' Terminal or via SWIFT are immediately completed upon successful debiting of funds from the buyer and debiting of securities from the seller, and are deemed final (not subject to waiting time).

End-of-day securities transfer transactions are balanced during the CMU settlement run.

Notwithstanding the mode or means of transfer, all local securities transfer instructions effected through the CMU Service shall be settled by the HKMA, debiting or crediting the relevant securities accounts of the CMU Members concerned; once debited or credited to such securities accounts, such securities transfer instructions shall be deemed made, completed, irrevocable, and final.

The situation can be more complex where the securities transfer instructions are effected through linkages with other regional central securities depositories (CSDs) including the Korea Securities Depository; AustraClear; China Central Depository and Clearing (CCDC); and a Taipei, China-based depository and clearing corporation; or with ICSDs such as Clearstream or Euroclear. For debt securities issued and cleared through CMU, the ICSDs will typically use their own Hong Kong domestic links to support the settlement and custody services.

b. At the Central Clearing and Settlement System of Hong Kong Securities Clearing Company Limited

HKSCC, the owner and operator of CCASS, acts as the central counterparty for exchange trades settled via Continuous Net Settlement. As central counterparty, HKSCC guarantees settlement to the buyer and seller participants at the time of novation of the trade.

Securities settlement will become irrevocable after the cash settlement for the underlying exchange trades has occurred in the scheduled batch settlement runs at CCASS on T+2. The actual cash is settled through the facilities of HKICL, which operates the domestic RTGS.

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[51] HKSCC only guarantees the clearing and settlement of continuous net settlement transactions between its participants.

3. Prohibited Transfers

a. At the Central Moneymarkets Unit

On-exchange naked short-selling of listed securities, including debt securities, is prohibited in Hong Kong, China and all CMU Members must undertake not to incur a short position in any CMU Instruments. Securities may only be sold at or through a recognized stock market if the seller (as principal) or his principal (as agent), at the time he sells them, has, or believes he has reasonable grounds for believing that he or the principal has a presently exercisable and unconditional right to vest the securities in the purchaser (section 170 of the SFO).

The concept of "presently exercisable and unconditional right to vest the securities in the purchaser" is interpreted with some flexibility. For further illustration, see the SFC's Guidance Note on Short Selling Reporting and Stock Lending Record Keeping Requirements available at the SFC website.[52]

b. At the Central Clearing and Settlement System of Hong Kong Securities Clearing Company Limited

On-exchange covered short sales (short-selling orders) in "designated securities" (as designated by SEHK pursuant to the Short-Selling Regulations in the 11th Schedule to the Trading Rules) shall be concluded in accordance with the provisions of the regulations stipulated in the Trading Rules.[53]

HKSCC charges a default fee of 0.50% of the market value of failed transactions.

The maximum penalties for contravention of section 170 of the SFO are a fine of HKD50,000 and imprisonment for 1 year.

4. Custodian Point of View

Participants in CCASS or the CMU, typically commercial banks and brokers acting as custodians for their investor clients, recognize only the owner of the securities as reflected in their books since they are able to maintain omnibus accounts at the respective settlement system. From a custodian point of view, the transfer of securities is complete once the confirmation of settlement from the respective settlement system is received and results in a corresponding transfer in the custodian's books, which will be advised to clients by status update messages and end-of-day statements, as the case may be.

M. Market Participants

1. Issuers

The HKMA is the main issuer of Hong Kong dollar debt instruments, followed by Authorized Institutions and non-MDB overseas borrowers. In 2015, the amount of EFBs issued by the HKMA amounted to HKD2,242 billion, which accounted for about

[52] Securities and Futures Commission. SFC Regulatory Handbook. http://www.sfc.hk/sfcRegulatoryHandbook/EN/displayFileArchServlet?docno=H141
[53] See https://www.HKEX.com.hk/eng/rulesreg/traderules/sehk/Documents/sch-11_eng.pdf

90% of the aggregate amount of Hong Kong dollar debt instruments issued by any party.

In other typical years, the HKMA was still the main issuer and accounted for around 60% of total Hong Kong dollar debt instruments issued. As of the end of 2015, the outstanding amount of bonds and notes issued by public entities including the government, the HKMA, statutory bodies, and government-owned corporations accounted for about 61%; private entities including Authorized Institutions, local corporates, MDBs, and non-MDB overseas borrowers accounted for the remaining 39%.

For further details, please refer to the feature article, The Hong Kong Debt Market in 2015, in the *HKMA Quarterly Bulletin March 2016*.[54]

2. Guarantor

A guarantor may be required in case the issuer's credit rating or financial situation do not allow for an unassisted issuance of bonds or notes. The guarantor is usually the parent company of a corporate issuer.

3. Investors

Pension funds including the Mandatory Provident Fund schemes, banking institutions, and government-related institutions are the major institutional investors of bonds and notes issued in Hong Kong, China.

4. Parties Involved in Debt Securities Issuance

A number of intermediaries provide services to issuers and investors in the context of the issuance of debt securities in the Hong Kong bond market. The following text provides a brief description of the type of intermediaries and their specific functions.

a. Recognized Dealers and Market Makers

A recognized dealer is an institution which is appointed by the HKMA to hold and deal in retail bonds and institutional bonds through the CMU for the Government Bond Programme.

Recognized Dealers and Market Makers: a two-tier dealership scheme was set up when the EFBN programs were implemented. A number of Recognized Dealers and Market Makers for EFBNs were appointed by the HKMA. In return for certain privileges, the Recognized Dealers and Market Makers are obliged to support, with different degrees of commitment, the development of the EFBN market. Recognized Dealers participate in the secondary market and promote EFBNs in the retail market.

For their part, Market Makers are appointed from the pool of Recognized Dealers and participate actively in the primary market. They have the added responsibility of maintaining secondary market liquidity. Only the Recognized Dealers and Market Makers are eligible to settle EFBNs through the CMU. The Government Bond Programme, which was set up in 2009, also adopted the two-tier dealership scheme. A number of Recognized Dealers and Primary Dealers were also appointed by the HKMA. Similarly, the Government Bond Programme's Recognized Dealers participate in the secondary market while some are additionally appointed as Primary Dealers to participate in the primary market.

[54] See http://www.hkma.gov.hk/media/eng/publication-and-research/quarterly-bulletin/qb201603/fa1.pdf

b. Arranger

The term arranger (also bookrunner or lead manager) is used in the Hong Kong bond market for the lead underwriters of a bond or note issue, including and in particular for note issuance programs. Only institutions licensed by or registered with the SFC can act as arranger. The appointment of an arranger is not mandatory in Hong Kong, China, but a number of government agencies use the services of regular arrangers for the placement of their issuances in the primary market.

The arranger will structure the debt securities, together with any other arrangers or underwriters, and also submit a listing application to SEHK on behalf of the issuer, if a listing for profiling or trading is intended.

c. Underwriter(s)

Investment banks and commercial banks are the main underwriters of debt securities in the Hong Kong bond market. An underwriter is appointed by the issuer, on the advice of the arranger. The arrangers of an issue, besides inviting licensed or registered financial institutions to subscribe to or underwrite the issue, can themselves be underwriters.

Underwriters in the context of a bond or note issuance can be banks, brokers, or securities firms. They need to be either a Licensed Corporation or a Registered Institution.

The appointment of an underwriter is not mandatory in Hong Kong, China, including for a public offer of debt securities.

d. Fiscal Agent

This description of the fiscal agent role and functions is specific to provisions and practices in the Hong Kong bond market. The role and functions of a fiscal agent in other markets, while principally similar, may differ.

A fiscal agency agreement is executed between the issuer and the Fiscal Agent as the principal paying agent of the issuer. The issuer pays the interest or the principal to the fiscal agent and the fiscal agent instructs other paying agents to pay the amounts of interest or principal to the bondholders. The fiscal agent then reimburses the paying agents the amounts paid out.

The fiscal agent also has other functions, such as keeping records of payments on the bonds or notes, calling and holding bondholders' meetings when necessary, sending notices to bondholders, and issuing replacements for lost or destroyed bonds or notes (if applicable).

As a fiscal agent is the agent of the issuer, they do not represent the interests of the bondholders. The issuer would generally execute a deed of covenant, under which bond- or noteholders are given direct rights of enforcement against the issuer for default in payment or delivery of definitive bonds or notes.[55]

[55] A deed of covenant is an arrangement under which a party promises to pay a certain sum regularly to another party within a specified time frame.

e. Paying Agent

In Hong Kong, China, a paying agent is responsible, together with the trustee and/or fiscal agent, for paying the interest and principal under, and sending notices pursuant to, the notice provisions of the CMU Instruments or bonds and notes listed and traded on SEHK.

The paying agent is responsible for the cash flow involved in a bond or note transaction under the instructions of the fiscal agent (see above), specifically in receiving the proceeds from the issuance on behalf of the issuer and remitting the proceeds to the issuer or the trustee, as the case may be, as well as the payment of interest and redemption amounts to investors. The function may include the withholding of taxes and duties, as may be applicable. An underwriter may also perform the paying agent role.

The Paying Agent receives an issue position report from the CMU Service on the interest payment dates of the relevant CMU Instruments, the aggregate nominal value of the relevant CMU Instrument held by each CMU Member at the interest payment record date, the maturity date of the relevant CMU Instruments, and the aggregate nominal value of the relevant CMU Instrument held by each CMU Member at the maturity record date.

The HKMA acts as the paying agent for Hong Kong government bonds and its own EFBNs. The role of a paying agent for corporate bonds and notes is typically performed by a commercial bank.

f. Conversion Agent

In the case of convertible bonds, the issuer will engage a conversion agent, responsible for handling on behalf of the issuer the conversion notices sent by the bondholders, receiving payments from bondholders and the issuer in respect of the conversion and cancelling of the original bonds upon conversion.

The conversion agent would also be responsible for calculating the number and aggregate principal amount of new shares to which the bondholders exercising the conversion rights would be entitled.

The conversion agent is normally a bank.

g. Bond Trustee

Bonds may be constituted in a trust deed, under which the issuer covenants with the trustee to perform its duties under the terms and conditions of the bonds, including to pay any amount due under the bonds and to notify the trustee of any event of default.

The trustee is the representative of the bondholders and exercises the bondholders’ rights on behalf of the bondholders and monitors the issuer’s performance of its obligations under the bonds.

A paying agency agreement is executed between the issuer, the trustee, and the paying agent, under which the paying agent (as agent for the issuer) receives payments due the bondholders from the issuer and pays the relevant interest or principal to the bondholders.

Although in practice payments to bondholders are effected through paying agents, the trust deed usually provides power to the trustee, if it declares that an event of default has occurred, to require the issuer to make payments directly to it rather than to the paying agent or to require the paying agent to act as the trustee's agent, rather than the issuer's agent, when making payments. This protects the bondholders in cases where the issuer is insolvent; the money held by the paying agent would belong to the trustee rather than being vulnerable to claims by the issuer or the issuer's liquidators.

For a detailed description of the role and functions of the bond trustee, please refer to sections P.5 and Q in this chapter.

h. Authorized Institution(s) as Depository Agents

Authorized Institutions are licensed banks, restricted license banks, and deposit-taking institutions and may act as depository agents for investors or issuers. They are designated as CMU Members or CCASS Participants, respectively, and may be custodians, Recognised Dealers or Primary Dealers, or underwriters.

(i) Central Moneymarkets Unit Members and Lodging Agent

The CMU Member or CMU Lodging Agent holds the legal title of the bonds held within the CMU Service. CMU Participants are required to maintain segregated accounts in CMU for their own holdings and those belonging to clients. Client holdings are typically maintained as an omnibus account, however, clients with large holdings or holdings for specific purpose may request to open separate accounts accordingly.

If the CMU Member holds the CMU Instrument for and on behalf of its customers, it should arrange for the relevant amount of interest to be paid to the customers according to the standing arrangements between the CMU Member and the customers. The CMU Member or CMU Lodging Agent receives the Account Position Report, confirming the balances in their securities accounts with the CMU Service.

CMU membership is open to financial institutions regulated by the HKMA, SFC, Office of the Commissioner of Insurance or Mandatory Provident Fund Schemes Authority, and local and overseas financial entities at the discretion of the HKMA. All CMU Members are required to sign a CMU Membership Agreement with the CMU Service.

(ii) Central Clearing and Settlement System Participants

Many domestic intermediaries are also participants in the CCASS settlement system. The types of CCASS Participants are defined in HKSCC's Clearing House Rules under General Rules of CCASS, Chapter 3, Rule 302 lists: [56]

(i) Clearing Agency Participants,
(ii) Custodian Participants,
(iii) Direct Clearing Participants,
(iv) General Clearing Participants,

[56] See https://www.HKEX.com.hk/eng/rulesreg/clearrules/ccassgr/ccassrule.htm

(v) Investor Participants,
(vi) Stock Lender Participants, and
(vii) Stock Pledgee Participants.

For example, a Custodian Participant must be an Authorized Institution under the Banking Ordinance, a trust company, or a Licensed Corporation that can carry out Type 1 regulated activities under the SFO.

Each participant has to sign a Participant Agreement with HKSCC, which stipulates the role, functions, and obligations of the relevant type of participant.

Authorized Institutions are also typically the banks participating in the respective RTGS settlement systems for cash settlement purposes.

Custodians may also offer a range of value-added products and services in relation to the bond market, such as securities lending or repo business.

i. Legal Advisers (Legal Counsel)

Before the finalization of debt securities issues, a legal due diligence exercise is always conducted on the issuer, related projects, and project information pertaining to the debt securities issue. This is done by legal counsel appointed by the issuer, typically also referred to as a legal adviser.

Law firms involved in the bond or note issuance process in Hong Kong, China are not required to obtain a specific license or accreditation with the SFC or HKMA. There is no positive or negative list for law firms maintained or published by the SFC.

j. Auditors

Auditors are typically accounting firms involved in the bond or note issuance process in Hong Kong, China. These firms are not required to obtain a specific license or accreditation with the SFC or HKMA. There is no positive or negative list for accounting firms maintained or published by the SFC.

In addition to reviewing the financial situation of an issuing company, and the certification of the financial statements, auditors typically also perform a limited financial due diligence exercise to ascertain the credibility of the financial projections and financial data in the disclosure information for an intended bond or note issue. The primary purpose of these due diligence exercises is to ensure that no misleading and/or inaccurate information is furnished to the regulatory authorities and investors. Auditors may also issue comfort letters, if so applicable or required.

N. Definition of Professional Investors

The definition of "professional investor" is particularly significant in the issuance of (or investment in) debt securities exempt from prospectus or full disclosure requirements. Such offers for sale or subscription of bonds or notes to Institutional Investors only constitute the professional bond market in Hong Kong, China. Details and descriptions of the regulatory processes for bond and note issuance can be found in Chapter II.

Institutional entities that qualify as professional investors based in Hong Kong, China may invest in overseas markets without limitation subject to the laws and regulations in the relevant jurisdictions, unless these institutions' own mandates, investment guidelines, or specific prudential regulations prescribe particular restrictions.

1. General Definition

The SFO provides for the definition of professional investor in Hong Kong, China. This definition includes investors listed under items 1–9 below. The investors listed in items 1–5 below are typically referred to as Institutional Professional Investors and the investors listed in items 6–9, prescribed by the Securities and Futures (Professional Investors) Rules (Cap. 571D) (PI Rules), are typically referred to as Non-Institutional Professional Investors:

(i) Institutional Professional Investors include

1. regulated securities firms, any person carrying on the business of the provision of investment services regulated under the Laws of Hong Kong or the laws of any place outside Hong Kong, China;
2. regulated banks, any bank regulated under the Laws of Hong Kong or the laws of any place outside Hong Kong, China;
3. regulated insurers, any insurer regulated under the Laws of Hong Kong or the laws of any place outside Hong Kong, China;
4. authorized investment funds, any collective investment scheme authorized by the SFC or similarly constituted under the laws of any place outside Hong Kong, China, and, if regulated under the laws of such place, permitted to be operated under the laws of such place, or any person by whom any such scheme is operated; and
5. sovereign bodies, any government (other than a municipal authority) or any institution, which performs the functions of a central bank, or any multilateral agency.

(ii) Non-Institutional Professional Investors (persons who, as a result of their financial position, qualify as professional investors under the Professional Investor Rules), include:

6. High Net Worth Individuals, any individual (either alone or with any of his or her associates on a joint account) who has a portfolio of not less than HKD8 million (or its equivalent in any foreign currency);
7. corporate professional investors, any corporation or partnership with either a portfolio of not less than HKD8 million (or its equivalent in any foreign currency) or total assets of not less than HKD40 million (or its equivalent in any foreign currency); and
8. trusts, any trust corporation entrusted under the trust or trusts of which it acts as a trustee with total assets of not less than HKD40 million (or its equivalent in any foreign currency); and
9. investment holding corporations, any corporation the sole business of which is to hold investments and is wholly owned by one or more of the persons listed in items 6, 7, or 8.

The provisions of the above regulations specifically include foreign investors.

The scope of Institutional Investors corresponds closely with the typical scope of professional investors found in other markets and used in the definition of professional bond or note issuance concepts such as AMBIF (see also Chapters IX and X).

With regard to CMU practices, issuers shall ensure that their bond or note issuance meets all regulatory requirements, including compliance with the SFO and the definitions of Professional Investors contained therein, before lodging the bond or note with the CMU.

2. Use of Definition by the Stock Exchange of Hong Kong Limited

In its dealings for the Professional Bonds market, SEHK uses the term professional investors, which in Hong Kong, China includes professional investors as defined in the SFO (excluding those prescribed by rules made under Section 397 of the SFO). This includes Institutional Professional Investors but not Non-Institutional Professional Investors. However, SEHK may grant waivers to allow such Non-Institutional Professional Investors to participate in the Institutional Professional Investors-only debt issues.

Rule 37.58 of the Listing Rules contains a definition of professional investor, which is also contained in guidance letters issued by SEHK:[57]

> (a) For a person in [Hong Kong, China], a professional investor as defined in part 1 of Schedule 1 to the [SFO] (excluding those prescribed by rules made under section 397 of [the SFO]); or
>
> (b) For a person outside [Hong Kong, China], a professional investor is a person to whom securities may be sold in accordance with a relevant exemption from public offer regulations in that jurisdiction.

O. Credit Rating Requirements

This section covers the applicable credit rating requirements for bonds and notes issued in the Hong Kong bond market. For details on the underlying regulations on credit rating agencies and their business, please refer to Chapter II.N.

1. Present Requirements

As stated in Guideline 6.2.2B, the HKMA recognizes the ratings of various credit rating agencies for the purposes of the liquidity regime as well as the market risk capital adequacy framework. Under the liquidity regime, Authorized Institutions' holding of marketable debt securities may be regarded as liquefiable assets for liquidity ratio purposes if they have a qualifying credit rating recognized by the HKMA. For the purposes of the market risk capital adequacy framework, debt instruments in the trading book which satisfy certain qualifying credit ratings may be included in a "qualifying" category which carries a lower capital requirement. Guideline 6.2.2B also restates the HKMA's view of qualifying credit rating.[58]

2. Credit Rating Requirements for Debt Issues to Qualify for Profits Tax Concession

In August 2012, the HKMA announced specific credit rating requirements applicable to short-term debt instruments for the purpose of qualifying debt instruments for profits tax concession under section 14A of the Inland Revenue Ordinance.

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[57] The Stock Exchange of Hong Kong Main Board Listing Rules 37.58; see also http://en-rules.hkex.com.hk/net_file_store/new_rulebooks/c/o/consol_mb.pdf
[58] See http://www.hkma.gov.hk/eng/key-information/guidelines-and-circulars/guidelines/guide_622bb.shtml

Under the profits tax concession scheme, interest income and trading profits derived from eligible debt securities are entitled to concessionary tax rates as specified in the relevant section. To be eligible, a debt instrument should, among other criteria, possess a credit rating acceptable to the HKMA from a rating agency recognized by the HKMA. More details on the tax concessions can be found in Chapter VI.

The HKMA had already announced minimum acceptable credit ratings applicable to long-term debt instruments in June 2006. With the newly announced minimum acceptable credit ratings applicable to short-term debt instruments, the minimum credit ratings acceptable to the HKMA for the purpose of qualifying debt instruments for profits tax concession under section 14A of the Inland Revenue Ordinance are listed in Table 3.2.

Table 3.2: Credit Rating Requirements for Debt Issues to Qualify for Profit Tax Concession

Recognized CRAs	Minimum Rating Required	
	Long-Term Debt Instrument	Short-Term Debt Instrument
Fitch Ratings	BBB–	F3
Moody's Investors Service	Baa3	P-3
Rating and Investment Information, Inc.	BBB–	a-3
Standard and Poor's Ratings Services	BBB–	A-3

CRAs = credit rating agencies.
Source: Hong Kong Monetary Authority, adapted by ADB Consultants for SF1.

The HKMA reserves the right to make adjustments to the list of rating agencies and minimum credit ratings recognized by it.

3. Credit Rating for Issuance to Professional Investors

A credit rating is not mandatory for bonds and notes to be issued to professional investors in the Hong Kong bond market. Issuers may choose to use a credit rating if it would satisfy investor demand. As of 2014, the majority of bonds and notes listed on SEHK carried an investment grade rating.

A credit rating is also not a specific criterion for eligibility to list a bond or note aimed at professional investors in the Professional Bonds market on HKEX.

P. Market Features for Investor Protection

This section reviews a number of topics that have a bearing on the protection of investors in the Hong Kong bond market, particularly for retail or nonprofessional investors.

1. Investor Complaints

The SFC performs its regulatory functions with high integrity and accountability, and this commitment extends to the handling of complaints from the public. Hence, the SFC offers investors or the general public the opportunity to lodge a complaint against market participants or market activities, or against the SFC itself, via its website or direct contact.[59]

As the regulatory authority for licensed banks, restricted license banks, and other deposit-taking companies, the HKMA offers the public the ability to lodge complaints against banks. For that purpose, the HKMA provides the complaint form, frequently asked questions on complaints against banks, as well as a flowchart of the complaint handling process, on its website.[60] At the same time, the HKMA also provides a list of contact persons at the banks for the lodging of any complaint directly with these institutions should the complainant so prefer.

The HKMA does not have the legal power to order banks to pay compensation. If the complaint is about a monetary dispute, a complainant could consider using the mediation and arbitration services provided by the Financial Dispute Resolution Centre, which provides financial consumers with an independent and affordable avenue, as an alternative to litigation, for resolving some monetary disputes with financial institutions.

2. Retail Investors

Retail investors, or in fact any investors, interested in obtaining detailed knowledge about and a better understanding on debt instruments, the bond market in Hong Kong, China at large, its market infrastructure and participating institutions, licensed persons and intermediaries, and products and services in the capital market have a wide choice of available resources and websites.

The SFC details on its website a comprehensive list of laws, codes and guidelines, as well as circulars for the Hong Kong bond market, including provisions on debt instruments and bond market participants, and a register of licensed persons and institutions. In addition, the website provides access to numerous industry-related publications and research papers for the public's benefit.

Similarly, the HKMA website contains quick links to guidelines and circulars, as well as to consumer tools and reference materials. In addition, the HKMA maintains the HKMA Information Centre, which introduces the work of the HKMA and houses books, journals and other texts on central banking and related subjects. The HKMA Information Centre consists of an exhibition area and a library. It is operated as a resource for HKMA staff and as an educational and research facility for the public. The HKMA Information Centre has been open to the public since 1 December 2003 and admission is free.

The CMU itself offers free access to the CMU Bond Price Bulletin on its website, which contains reference bond prices and yields, as well as bids and offer information from a number of price providers in the market. Visitors can use quick links to go to the outstanding bonds of specified issuers.[61] The bulletin also contains news, statistics, and manuals for the easy reference of investors.

In turn, HKEX offers detailed descriptions of governing regulations and its own rules on its website, together with access to an Investment Service Centre for the public's easy reference. The available information is complemented with statistics and research materials, as well as news from, and consultations happening in the Hong Kong bond market.

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[59] See http://www.sfc.hk/web/EN/lodge-a-complaint/
[60] See http://www.hkma.gov.hk/eng/key-functions/banking-stability/complaints-about-banks.shtml
[61] See https://www.cmu.org.hk/cmupbb_ws/eng/page/wmp0100/wmp010001.aspx

For retail investors, the Investor Education Centre, which is supported by the Education Bureau and financial regulators, hosts a website that offers comprehensive information about investing in bonds and other financial products. Branded as the "the Chin Family" to help viewers relate to typical, real-life situations, the website offers educational resources for teachers and students, parents and retirees, as well as the investing public at large, on bonds, their terminology, and associated investment risks.[62]

3. Foreign Investors

Foreign investors as creditors have the same rights as local creditors in Hong Kong, China.

Due to the general availability in the Hong Kong bond market of issuance documentation, disclosure items, credit ratings, and pricing information for debt securities in English through a variety of public domain websites, foreign investors enjoy the same access to relevant data as local investors. Where websites require subscription to receive information, such subscription service is also available to foreign investors.

4. Bondholder Rights

Bondholders, like other investors of securities, enjoy certain protections under the SFO and subsidiary regulations by the SFC and HKMA, respectively, including applicable codes of conduct for market participants. Under the CWUMPO, creditors, including bondholders, can file a winding-up petition for a company when debtors are unable to pay their debts (of an amount equal to or exceeding HKD10,000) after having made a statutory demand but the debtors did not pay within 3 weeks of the demand. When a winding-up order is made, the court appoints a liquidator who oversees the liquidation process.

5. Bond Trustee and Trust Deed

The Trustee Ordinance (Cap. 29 of the Laws of Hong Kong) provides for the function of a bond trustee and regulates the roles and responsibilities of the bond trustee for the benefit of the bondholders or noteholders.

While it is not mandatory in Hong Kong, China to appoint a bond trustee, the appointment of a trustee offers potential investors the added security of a party with fiduciary duties to safeguard the interests of the bondholders as set out in the trust deed and in the Trustee Ordinance.[63]

In the event a trustee is appointed, the trust deed covering the bonds or notes to be issued contains bond or note provisions and relevant covenants, and other requirements as may be agreed between issuer and trustee.

The trustee's role, responsibilities, and eligibility criteria for bond trustees are explained further in Section M of this chapter.

For information on bankruptcy protection and event-of-default provisions, please refer to Sections R and S of this chapter, respectively.

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[62] See http://www.thechinfamily.hk/web/en/financial-products/investment/bonds/index.html

[63] Under Listing Rules 29.11(d) and 37.16, there must be a trustee or other appropriate independent party representing the interests of the holders of asset- backed securities and with the right of access to appropriate info relating to the assets. Also, Listing Rule 24.10 appears to suggest that where a trust is formed to secure or constitute the debt securities seeking listing, the trust deed needs to be submitted to SEHK.

6. Securities and Futures Ordinance

The SFO gives both the SFC and HKMA substantial powers to regulate and supervise the securities market and banking industry, respectively. The SFO provides strong protection for investor interests, and enhances corporate governance of listed companies and market transparency, with particular references and provisions in the following areas:

(i) Part VIII (Supervision and Investigations) includes details on the supervision and investigation powers of the SFC and the supervision powers of the HKMA;

(ii) Part IX (Discipline, etc.) outlines possible disciplinary actions by the SFC against infringements or violations of the SFO;

(iii) Part X (Powers of Intervention and Proceedings) sets out the powers of the SFC to intervene in the business of, or dealing with property by, a Licensed Corporation, as well as the powers of the SFC to apply to the court for injunctions and other orders;

(iv) Part XIII (Market Misconduct Tribunal) provides that the SFC may institute proceedings in the Market Misconduct Tribunal where it appears to the SFC that market misconduct has or may have taken place;

(v) Part XIV (Offences Relating to Dealings in Securities and Futures Contracts, etc.) creates criminal offenses for misconduct, such as insider dealing and disclosure of false and misleading information etc., and details provisions and mechanisms on how to address such misconduct;

(vi) Part XIVa (Disclosure of Inside Information) requires a listed corporation to disclose inside information—specific information about the corporation, its shareholders or officers, and its listed securities or derivatives that is not publicly known and is materially price sensitive—to the public as soon as reasonably practicable; and

(vii) Part XV (Disclosure of Interests) requires the disclosure to investors and the market by corporate insiders of their interests in securities of listed corporations to ensure a fair, informed, and orderly securities market.

7. The Investor Compensation Fund

Prior to the enactment of the SFO there were two separate investor compensation schemes called the Unified Exchange Compensation Fund (UECF) and the Commodity Exchange Compensation Fund (CECF) managed, respectively, by SEHK and the Hong Kong Futures Exchange Limited. The CECF was wound up in May 2006 and the residual monies were transferred to the Investor Compensation Fund (ICF). The UECF is applicable to the claims submitted before 1 April 2003 and it no longer covers the claims submitted after that.

The prevailing ICF was introduced on 1 April 2003 under the SFO. The main aim of the ICF is to pay compensation to qualifying investors (any nationality) who suffer financial losses on account of a default on the part of an intermediary licensed or registered for dealing in securities or in futures contracts, or an Authorized Institution that provides securities margin financing in relation to securities or futures contracts listed or traded on SEHK or HKFE. The maximum compensation limit for each claimant is pegged at HKD150,000 by the Investor Compensation–Compensation Limits Rules (Cap. 571AC).

The Investor Compensation Company Limited was established for the administration and determination of claims received against the ICF. The main source of income for the ICF is from the Investor Protection Levy imposed on each exchange-traded product transaction. The current levy is as follows:

Nature of Transaction	Amount Payable
Securities transactions	0.002% payable each (buyer and seller)
Futures contract	HKD0.5 per side of a contract or HKD0.1 per side of a mini-Hang Seng Index futures, mini-Hang Seng Index options contract, or mini-Hang Seng China Enterprises Index futures contract

A levy suspension and reinstatement mechanism was introduced on 28 October 2005 by amendments to the Investor Compensation–Levy Rules (Cap. 571AB). As the net asset value of the compensation fund exceeded the limit of HKD1.4billion in 2005, the payment of an Investor Compensation Levy has been suspended by the SFC, according to the levy trigger mechanism for sale or purchase of securities and futures contracts, since 19 December 2005. The other funding sources of ICF include investment income, bank interest earned on deposits maintained, and transfers from the UECF and CECF.

Q. Bond Trustee or Fiscal Agent Structure

In Hong Kong, China, bond and note issues are generally structured in one of two possible manners, i.e. using a trustee structure or a fiscal agent structure. The rights and obligations of the bondholders and the issuer are different depending on the structure.

While the trustee has fiduciary responsibility towards the bondholders, the fiscal agent does not; hence, from the perspective of foreign institutional investors, and those investors subject to a prudential mandate, the appointment of a trustee may appear safer than the use of a fiscal agent.

The appointment of a trustee is possible but not mandatory under the law. Approximately 90% of all bonds and notes issued feature a fiscal agent structure instead of the use of a trustee. According to market participants, the choice may typically be determined by the question of cost, and the availability of a limited number of trustees in the market; at the same time, however, some issuers may appreciate the use of a central party to handle all relevant functions with regards to bondholders and other matters.

1. Bond Trustee Structure

Issuers or their agents in the issuance of a bond or note to professional investors may appoint a bond trustee. Having a bond trustee is not mandatory under the law and optional for bonds and notes listed on the SEHK Professional Bonds market. However, Listing Rule 24.10(6) stipulates the requirement for a trustee in retail debt offerings. Issuers or their agents in the issuance of a bond or note aimed at Institutional Investors may appoint a bond trustee, if investors or the applicable Listing Rules so require. For example, under Listing Rules 29.11(d) and 37.16, there must be a trustee or other appropriate independent party representing the interests of the holders of asset-backed securities and with the right of access to all appropriate information relating to the assets. Also, Listing Rule 24.10 requires submission of a trust deed or other document securing or constituting the debt securities to SEHK if available.

The bonds or notes may be constituted in a trust deed, under which the issuer covenants with the trustee to perform its duties under the terms and conditions of the bonds or notes, including to pay any amounts due under the bonds or notes and to notify the trustee of any event of default.

The trustee is the representative of the bondholders and exercises the bondholders' rights on behalf of the bondholders and monitors the performance by the issuer of its obligations under the bonds or notes.

A paying agency agreement is executed between the issuer, the trustee and the paying agent under which the paying agent (as agent for the issuer) receives payments due to the bondholders from the issuer and pays the relevant interest or principal to the bondholders.

Although, in practice, payments to the bondholders are effected through the paying agents, the trust deed usually provides power to the trustee, if it declares that an event of default has occurred, to require the issuer to make payments directly to it rather than to the paying agent, or to require the paying agent to act as the trustee's agent, rather than the issuer's agent, when making payments.

This protects the bondholders where the issuer is insolvent; the money held by the paying agent would belong to the trustee, rather than being vulnerable to claims by the issuer or the issuer's liquidators.

2. Fiscal Agent Structure

A fiscal agency agreement is executed between the issuer and the fiscal agent (as the principal paying agent of the issuer). The issuer pays the interest or the principal to the fiscal agent and the fiscal agent instructs the other paying agents to pay the amounts of interest or principal to the bondholders. The fiscal agent then reimburses the paying agents the amounts paid out.

The fiscal agent typically also has other functions, such as the keeping of records of payments on the bonds or notes, the calling and holding of bondholders' meetings when necessary, the sending of notices to bondholders and the issuing of replacements for lost or destroyed bond or note certificates (if not a scripless bond or note).

As the fiscal agent is the agent of the issuer, it does not represent the interests of the bondholders. The issuer would generally execute a deed of covenant under which bondholders are given direct rights of enforcement against the issuer (for default in payment or delivery of definitive bonds).[64]

R. Meeting of Bondholders

The terms as to the rights to convene meetings of bondholders or noteholders and quorum requirements may be stated in the trust deed or the fiscal agency agreement and depend on the agreement of the parties involved.

[64] An arrangement under which a party promises to pay a certain sum regularly to another party within a specified time frame.

1. Fiscal Agent Structure

The issuer or noteholders holding not less than 10% of the nominal amount of the bonds or notes for the time being outstanding may convene a meeting of bondholders or noteholders.

The quorum is one or more persons holding or representing not less than 50% in nominal amount of the notes for the time being outstanding.

2. Trustee Structure

Bondholders or noteholders holding not less than 10% of the principal amount of the bonds and notes for the time being outstanding may convene a meeting of bondholders or noteholders, as may be applicable.

The quorum is two or more persons holding a clear majority of the principal amount of the bonds or notes for the time being outstanding (except where the business of the meeting covers certain reserved matters, a higher threshold is required).

Resolutions passed in a meeting of bond- or note-holders, or simply written resolutions of holders holding a specified per cent of the aggregate principal amount of outstanding bonds would be binding on all holders of the bonds.

Usually any changes to the terms would have to be agreed to by the issuer. Practically speaking, bondholders' meetings, other than in the case of default, are generally only convened by the Issuer.

S. Bankruptcy Procedures

Any bond issuers declaring bankruptcy are subject to the relevant rules set out in the CWUMPO. In the case of Hong Kong, China, the Bankruptcy Ordinance (Chapter 6 of the Laws of Hong Kong) generally only applies to individuals.

The ranking of a bond among an issuer's overall debt is determined by taking into account the terms and conditions set out in the prospectus, offer documents, term sheets or similar documents, as well as section 38 (Priority of Debts) of the Bankruptcy Ordinance and section 265 of the CWUMPO.

The insolvency law in Hong Kong is contained in the Companies (Winding Up and Miscellaneous Provisions) Ordinance, the Bankruptcy Ordinance and the Companies (Winding-up) Rules. It is based on the law of the United Kingdom, prior to the introduction of the Cork Report. Like the regimes in Australia and New Zealand, which are also based on the laws of the United Kingdom, it is generally creditor friendly.

Out-of-court restructuring, schemes of arrangement, compulsory liquidations, creditors' voluntary liquidations, and receiverships are available under the insolvency law. No corporate rescue procedure is currently available.

Further details on the restructuring and insolvency frameworks of Hong Kong, China and other Asia-Pacific economies can be found in *The Asia-Pacific Restructuring and Insolvency Guide 2006* and *A Guide to Asia-Pacific Recovery and Insolvency Procedures*.[65]

[65] Clifford Chance. 2013. *A Guide to Asia-Pacific Recovery and Insolvency Procedures*. http://financialmarketstoolkit.cliffordchance.com/en/financial-markets-resources/resources-by-type/guides/restructuring-and-insolvency-guide-asia-pacific.html

T. Event of Default and Cross-Default

1. Terms of Event of Default

Events of default are a matter of negotiation, but generally cover nonpayment of principal or interest by the issuer; noncompliance with obligations under the bond instruments; nonpayment of other indebtedness of the issuer or guarantor when due; and the occurrence of certain specified events, for example, change of control; commencement of proceedings against the issuer; or the passing of an effective resolution for the winding up, administration, or dissolution of the issuer or guarantor.

Events of default are usually described in the Terms and Conditions of the Bonds.

2. Declaration of Default

a. Fiscal Agent Structure

Bondholders or noteholders may give written notice to the issuer to declare that the bonds or notes would become forthwith due and payable. This direct right is contained in a deed of covenant.

b. Trustee Structure

The trustee may, at its discretion, give notice of default by

(i) declaring the bonds or notes immediately due and repayable (with a certified opinion that the event is materially prejudicial to the interests of the holders of the bonds or notes); or

(ii) if so directed in writing by the holders of at least 25% in principal amount of the bonds or notes, or by an extraordinary resolution of the holders of the bonds or notes, declaring all the bonds or notes immediately due and repayable.

The trustee may institute proceedings against the issuer to enforce repayment of the principal of the bonds or notes with accrued interest and to enforce the provisions of the trust deed. However, the noteholders are not entitled to proceed directly against the issuer unless the trustee fails to do so within a reasonable period and such failure is continuing. The noteholders' interests are represented by the trustee.

c. Time of Event of Default

The default may happen at any time during the day.

3. Cross-Default

Debt securities issued in Hong Kong, China, including those issued by government-related corporations and large corporates may carry in their issuance documentation and terms and conditions a cross-default clause that allocates the right for bondholders or noteholders to seek immediate repayment of all debt securities by the same issuer held by them in case an event of default would be declared on a single bond or note of such issuer.

In practice, a bondholder or a group of bondholders holding a certain percentage of bonds or notes of an issuer have the right to call an event of default if the issuer fails to make a payment of principal or interest in respect of 'borrowed money' in an amount above a certain threshold. The threshold may be determined in the issuance documentation.