

Highlights of Hong Kong SAR Government's Policies in Light of COVID-19

March 23, 2020

Hong Kong SAR Government has implemented stricter immigration control and public health measures to help enterprises and individuals during the epidemic.

With the spread of the coronavirus, Hong Kong SAR Government has implemented stricter immigration control and public health measures including recommendations on social distancing and quarantine, as well as policies and guidelines in various aspects, to help enterprises and individuals during the epidemic.

The following is a summary of policies published by the Hong Kong SAR Government and/or other supervisory or regulatory bodies during the COVID-19 outbreak, and relevant legal and business considerations for the clients who have a business presence in Hong Kong or have a business in connection with Hong Kong.

Tax

Tax and stamp duty

- As the Inland Revenue Department is currently providing limited services, it has [announced](#) on March 22, 2020 that deadlines for tax payments, lodgment of objections and holdover applications, and submission of tax returns and information that fall between March 23, 2020 and April 3, 2020, were automatically extended to April 6, 2020.
- Given the limited services of the IRD, there could be delay in processing taxpayers' applications for holding over tax payments, providing tax clearance services and stamp duty services. Affected taxpayers should pay attention to the tax payment deadlines and allow for sufficient buffer time for the relevant services.

Financial reporting

Publication of annual results and annual report by the listed companies in Hong Kong

The Securities and Futures Commission and The Stock Exchange of Hong Kong Limited issued a Joint Statement on February 4, 2020, a set of [Frequently Asked Questions](#) on February 28, 2020 and [further guidance](#) on March 16, 2020 to provide guidance on the publication of preliminary results announcement due on March 31, 2020 and annual report due April 30, 2020.

Annual results announcement

- If by March 31, 2020 an issuer is able to publish a preliminary results announcement without agreement with its auditors or its management accounts, then the Exchange will normally not suspend trading in its securities. In all other cases, the issuer should consult the Exchange as soon as possible to discuss its individual circumstances.
- If the issuer's operations are severely affected by the outbreak and cannot prepare its management accounts by March 31,

2020, to allow trading in an issuer's securities to continue, the issuer should publish Material Financial Information which includes:

1. Key financial figures such as assets, liabilities, income and expenses, and changes in shareholders' equity; and
2. Narrative discussions of its financial position and performance during the year to supplement the financial figures provided, including the impact of any material events and any material transactions that have taken place.

The management should assess whether any inside information has arisen under Part XIVA of the Securities and Futures Ordinance and, if so, make a separate announcement as soon as reasonably practicable, independent of any announcement required under the Listing Rules.

- In all cases, the announcement should also explain how and why the travel and other restrictions have affected the issuer's ability to meet its reporting deadline.

Annual report

- An issuer may defer the publication of its annual report initially for up to 60 days from the date of this statement if the issuer has published, on or before March 31, 2020, (i) its preliminary results with its auditors' agreement in compliance with Main Board Rule 13.49 or GEM Rule 18.49 (as applicable); (ii) its preliminary results without its auditors' agreement pursuant to the Joint Statement (Q.1 of the FAQ); (iii) its management accounts (Q.2 of the FAQ); or (iv) Material Financial Information (see above and Q.3 of the FAQ).
- An issuer deferring the publication of its annual report as outlined above must: (i) announce an estimation of when it expects to publish its annual report with an explanation of the factors that it considered in arriving at such estimation, and (ii) keep the market informed of the expected publication date of its annual report along with other updates as appropriate.
- To apply for a further extension, an issuer must provide the Exchange with: (i) an explanation of why such further extension is necessary (e.g., why the necessary accounting or other information remains unavailable or why its auditors continue to be unable to obtain the verification needed to provide assurance to the required standards); (ii) the details of its plans to prepare and publish its annual report; and (iii) its proposed announcement in relation to such further extension (including any updated financial and operational information that it is able to provide to the market in the interim). The Exchange will assess each application taking into account, among other things: (i) the need for the market to be adequately informed as to the issuer's financial position and performance, and (ii) the comparability of available information for traded stocks.

The SFC and the Exchange will not take disciplinary action against a listed issuer (or its professional advisors involved in the reporting and audit processes) solely because there are material differences between the financial information published in accordance with the Joint Statement and later audited financial statements.

Filing of annual returns by Hong Kong companies and registered non-Hong Kong companies

The deadlines for filing annual returns remain **unchanged**, which require that:

- Local private companies deliver their annual return within 42 days after anniversary of the date of the company's incorporation in that year.
- Local public companies deliver their annual return within 42 days after the company's return date (i.e., 6 months after the end of the company's accounting reference period).
- Registered non-Hong Kong companies deliver their annual return after each anniversary of the date of registration of the company's under the Companies Ordinance.

Inbound travel

Health Declaration System

- Since March 8, 2020, all inbound travelers via Hong Kong International Airport are required to submit health declaration forms.

Restriction from entering Hong Kong

- Since January 27, 2020, the Hong Kong SAR Government has restricted non-Hong Kong residents who have visited the Hubei Province in the past 14 days from entering Hong Kong, upon arrival.
- Starting from March 25, 2020, the Hong Kong SAR Government will ban the following arrivals to the city:
 1. Non-Hong Kong residents arriving at the Hong Kong International Airport. All transit flights to the Hong Kong International Airport will be suspended (the ban on foreign arrivals and transit arrivals will last 14 days).
 2. Non-Hong Kong residents entering into Hong Kong from Mainland China, Macau and Taiwan who have been to any overseas countries/areas in the past 14 days.

Compulsory quarantine

- Starting from March 25, 2020, all arriving passengers entering Hong Kong from the Mainland, Macau and Taiwan, regardless of whether they are Hong Kong residents, will be subject to compulsory quarantine.
- These arriving passengers must stay at designated places (quarantine center, home or other accommodation) for a 14-day compulsory quarantine. They should not have any symptoms and should have passed temperature checks upon entry. Those with symptoms will be referred to the Department of Health for further handling. Arrivals holding a visa with validity of less than 14 days will be denied entry.

Employment

Remote and alternative working arrangements

- Employers (and responsible persons) remain liable for workplace safety. Employers should ensure relevant policies are in place. Employers continue to be liable to vicarious liability for any wrong committed by its employees.
- Special care must be taken to ensure confidentiality of information while employees work remotely. Robust confidentiality policies and guidelines should be in place.
- The threshold for employee compensation claims is very low. In the event an employee is injured while on a remote or alternative arrangement, the employer will most likely be liable.
- Requiring uncooperative employees to work from home may not be enforceable unless otherwise provided for in the contract.

Changes to secondment arrangements

- If the secondment is to be terminated, the termination clause in the secondment agreement should be followed. In many cases, terms of termination of secondment by employer or employee may be different. If the clause does not set out post-termination responsibilities (such as rental and repatriation costs) clearly, the parties should seek to negotiate and resolve these issues in the form of a settlement agreement.
- If the request for repatriation comes from multiple secondees, care must be taken to avoid discrimination. The recognized discrimination categories are as follows: sex, marital status, pregnancy, disability, family status and race.

Initiation of unpaid or part paid leave

- When choosing employees to take part paid/unpaid leave, the employer should take care to avoid discrimination. See above for the recognized discrimination categories.
- Hong Kong has a history of employers offering part paid/unpaid leave. The arrangement should be set out in a contract to avoid disputes.
- If employees are forced into part paid/unpaid leave, employees may sue the employer for breach of employment contract and/or constructive dismissal.

Deferral of employment and/or payments

- Late payment of wages is a violation of the labor laws. Employees may be entitled to unilaterally terminate the employment contract on late payment of wages.
- Deferral of employment in Hong Kong is quite common during difficult times. Employees, however, are free to reject the request for deferral of employment.
- If an employee agrees to late payment of wages, the parties should enter into an agreement to avoid future disputes.

Layoffs and termination of employees

- Termination of employees must be carried out in accordance with the termination clause in the employment contract.
- While employers may terminate employees in Hong Kong without cause, employers need to be mindful of unlawful terminations.
- Severance payments may be payable for qualifying employees who are made redundant. Employers cannot avoid payment of severance payment by labelling a redundancy as termination without cause.

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