

Regulatory Framework for Opening, Operating and Closing a Business

Disclaimer: Any information rendered in this document is for general references only and should not be considered as legal advice. Users are strongly advised to seek independent legal advice if they are in doubt of their legal position.

Financial Services – Secured Transactions and Collateral Registries

No.	Regulatory Framework	Link
<i>Risk Management for Bank Payment Service Providers - External Review</i>		
1.	At least 3 out of 4 functional equivalents (fiduciary transfer of title, financial lease, assignment or transfer of receivables and sales with retention of title) are regulated under the same law and registered at the same registry to be enforceable against third parties	<p>➤ Part 8 of Cap. 622 Companies Ordinance</p> <p><i>Note: Under the present regime of the Companies Ordinance (Cap. 622), registration is required if the security interest, which is created by (i) a company incorporated under the Companies Ordinance (Cap. 622) or a former Companies Ordinance or (ii) a registered non-Hong Kong company in respect of property in Hong Kong, falls within the definition of “specified charge” under section 334 of the Companies Ordinance (Cap. 622).</i></p> <p><i>As for transactions that do not fall within the definition of “specified charge” or are “specified charges” that are subject to requirements to be registered under other registries, they are beyond the purview of the Companies Ordinance.</i></p>

Public Services that Facilitate Trade

[Including services provided by government bureaux and departments, and other public organisations]

Disclaimer: There are other digital public services that aim to facilitate business and compliance in Hong Kong. Please refer to the webpages of individual bureaux / departments / public organisations for details.

Financial Services – Secured Transactions and Collateral Registries

No.	Public Services	Link
<i>Business Start-Up Process</i>		
1.	Collateral registry is in operation	<ul style="list-style-type: none"> ➤ Part 8 of Cap. 622 Companies Ordinance ➤ Companies Registry's Website
2.	Collateral registry (or its database) either centralized geographically for the entire economy or linked among different geographic regions within HKSAR	<ul style="list-style-type: none"> ➤ Companies Registry's Website ➤ Landing Page of the e-Services Portal ➤ Useful Information > About e-Services
3.	Requiring the registration of a non-possessory security interest in order to be enforceable against third parties	<ul style="list-style-type: none"> ➤ Section 337(4) of Cap. 622 Companies Ordinance
4.	Limiting the collateral registry to security interests granted by certain types of borrowers or creditors (e.g., incorporated entities, only individuals, commercial banks)	<ul style="list-style-type: none"> ➤ Part 8 of Cap. 622 Companies Ordinance
5.	Different registries do not exist for different types of debtors (e.g., incorporated and unincorporated debtors), same rules for the creation of the non-possessory security interest and for third party effectiveness apply	<ul style="list-style-type: none"> ➤ Part 8 of Cap. 622 Companies Ordinance

No.	Public Services	Link
6.	Different registries do not exist for different types of movable assets (e.g., specific categories of movables assets, or combined categories of movable assets), same rules for the creation of the non-possessory security interest and for third party effectiveness apply	➤ Part 8 of Cap. 622 Companies Ordinance
7.	Everyone, including members of the public, can access the data in the registry without restriction from any geographic location in the economy (e.g., without intermediaries such as registrars, clerks, notaries... or without being limited to a certain type of users such as state agencies)	➤ Companies Registry's Website ➤ Landing Page of the e-Services Portal ➤ Useful Information > About e-Services
8.	The registry has an electronic database searchable by debtor's name or unique identifier	➤ Companies Registry's Website ➤ Landing Page of the e-Services Portal ➤ Useful Information > About e-Services
9.	The collateral is searchable by serial number in the registry	➤ Companies Registry's Website ➤ Landing Page of the e-Services Portal ➤ Useful Information > About e-Services
10.	The registry does not verify the legality of the transaction once the notice of security interest has been submitted	➤ Part 8 of Cap. 622 Companies Ordinance ➤ Companies Registry's Website ➤ Publications > Information Pamphlets > Registration of Charges and their Discharge
11.	The registry covers all types of security interests in movable assets (other than vehicles, ships, aircraft, intermediated securities or intellectual property), including functional equivalents such as fiduciary transfers of title, financial lease agreements, assignments of receivables, and retention of title sales	➤ Section 334(1) of Cap. 622 Companies Ordinance

No.	Public Services	Link
12.	Allowing all types of secured creditors, whether incorporated or not, and their representatives to register a security interest with the collateral registry	➤ Sections 335(3) and 336(3) of Cap. 622 Companies Ordinance
13.	The Collateral Registry has an online system for the following: <ul style="list-style-type: none"> • Searches of security interests • Registrations of security interests • Amendments of security interests • Renewals of security interests • Cancelations of security interests 	➤ Companies Registry's Website ➤ Landing Page of the e-Services Portal ➤ Useful Information > FAQs > e-Filing Services for Documents Delivered Under Various Ordinances