

《證券及期貨(保險)規則》
(第 571 章, 附屬法例 AI)

Securities and Futures (Insurance) Rules
(Cap. 571 sub. leg. AI)

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經核證文本
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尚未實施的條文 / 修訂 ——

尚未實施的條文及修訂的資料，可於「電子版香港法例」(<http://www.elegislation.gov.hk>) 閱覽。

Provisions / Amendments not yet in operation —

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制定史

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《證券及期貨(保險)規則》

(第 571 章, 附屬法例 AI)

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Securities and Futures (Insurance) Rules

(Cap. 571 sub. leg. AI)

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《證券及期貨(保險)規則》

(第 571 章第 116(5) 條)

(略去制定語式條文——2017 年第 4 號編輯修訂紀錄)

[2003 年 4 月 1 日] 2003 年第 12 號法律公告

(格式變更——2017 年第 4 號編輯修訂紀錄)

1. (已失時效而略去——2017 年第 4 號編輯修訂紀錄)

2. 釋義

(1) 在本規則中，除文意另有所指外——

保險人 (insurer) 指——

- (a) 在遵守《保險業條例》(第 41 章) 第 6(1) 條的規定下，在香港或從香港經營保險業務的人；或 (2015 年第 12 號第 147 條)
- (b) 根據香港以外地方的法律在該地方或從該地方經營保險業務的人；

保險期 (period of insurance) 指證監會根據第 5(1) 或 (2)(a) 或 (b) 條核准的保險單所涵蓋的期間；

指明信貸評級 (specified credit rating) 指附表 3 所指明的任何一個信貸評級；

指明持牌法團 (specified licensed corporation) 指本規則憑藉第 3 條而適用的法團；

指明風險 (specified risks) 指附表 1 所指明的風險；

指明款額 (specified amount) 指附表 2 所指明的每個保險期的投保額 (如有的話)；

Securities and Futures (Insurance) Rules

(Cap. 571, section 116(5))

(Enacting provision omitted—E.R. 4 of 2017)

[1 April 2003] L.N. 12 of 2003

(Format changes—E.R. 4 of 2017)

1. (Omitted as spent—E.R. 4 of 2017)

2. Interpretation

(1) In these Rules, unless the context otherwise requires—

dealing in futures contracts (期貨合約交易) has the meaning assigned to it by Part 2 of Schedule 5 to the Ordinance;

dealing in securities (證券交易) has the meaning assigned to it by Part 2 of Schedule 5 to the Ordinance;

insurer (保險人) means a person—

- (a) carrying on insurance business in or from Hong Kong in compliance with section 6(1) of the Insurance Ordinance (Cap. 41); or (12 of 2015 s. 147)
- (b) carrying on insurance business in or from any place outside Hong Kong under the law of that place;

period of insurance (保險期) means a period covered by a policy of insurance approved by the Commission under section 5(1) or (2)(a) or (b);

specified amount (指明款額) means the insured amount (if any) specified in Schedule 2 per period of insurance;

期貨合約交易 (dealing in futures contracts) 具有本條例附表 5 第 2 部給予該詞的涵義；

證券交易 (dealing in securities) 具有本條例附表 5 第 2 部給予該詞的涵義。

(2017 年第 4 號編輯修訂紀錄)

- (2) 如根據某保險單，受保人本人必須就任何損失或申索承擔某款額，而保險人的法律責任在受保人的損失或申索超過該款額時方會產生，則就該保險單而言，在本規則中凡提述可扣除款額，即指該款額。

3. 適用範圍

本規則適用於根據本條例第 116(1) 條獲批給牌照進行任何受規管活動的法團，但符合以下說明的該等法團除外——

- (a) 並非聯交所或期交所的交易所參與者；及
- (b) 根據本條例第 116(1) 條獲批給牌照進行任何受規管活動，而該牌照是受該法團不得持有客戶資產的條件所規限的。

4. 指明持牌法團投購保險並將之保持有效的責任

- (1) 如證監會已為某類受規管活動而根據第 5(1) 條就某保險期核准某份總保險單，則就該類受規管活動獲發牌的指明持牌法團須為該類受規管活動在該保險期內並——
- (a) 在該份獲證監會核准的總保險單下；或
 - (b) 在由一名或多於一名符合以下說明的保險人提供的任何其他保險單下——
 - (i) 並非該指明持牌法團的有連繫法團；及
 - (ii) 在該保險單生效日期具有指明信貸評級，

specified credit rating (指明信貸評級) means any one of the credit ratings specified in Schedule 3;

specified licensed corporation (指明持牌法團) means a corporation to which these Rules apply by virtue of section 3;

specified risks (指明風險) means the risks specified in Schedule 1.

- (2) In these Rules, a reference to a deductible amount, in relation to a policy of insurance, means the amount of any loss or claim that an insured must himself bear under that policy and the insurer's liability will only arise when the insured's loss or claim exceeds such amount.

3. Application

These Rules apply to a corporation that is granted a licence under section 116(1) of the Ordinance to carry on any regulated activity other than such a corporation that—

- (a) is not an exchange participant of the Stock Exchange Company or of the Futures Exchange Company; and
- (b) is granted a licence under section 116(1) of the Ordinance to carry on any regulated activity subject to a condition that the corporation shall not hold client assets.

4. Duty of specified licensed corporations to take out and maintain insurance

- (1) Where the Commission has approved a master policy of insurance under section 5(1) in respect of a period of insurance for a regulated activity, a specified licensed corporation licensed for that regulated activity shall take out and maintain insurance for that regulated activity in relation to the specified risks for not less than the specified amount during that period of insurance under—

就指明風險投購款額不少於指明款額的保險並將之保持有效。

- (2) 如證監會已為屬證券交易的受規管活動而根據第 5(2)(a) 條就某保險期核准某份總保險單，則就該類受規管活動獲發牌的屬聯交所的交易所參與者的指明持牌法團，除投購它須根據本條的其他條文投購並將之保持有效的保險(如有的話)外，亦須為該類受規管活動在該保險期內並在該總保險單下，就指明風險投購款額不少於指明款額的保險並將之保持有效。
- (3) 如證監會已為屬期貨合約交易的受規管活動而根據第 5(2)(b) 條就某保險期核准某份總保險單，則就該類受規管活動獲發牌的屬期交所的交易所參與者的指明持牌法團，除投購它須根據本條的其他條文投購並將之保持有效的保險(如有的話)外，亦須為該類受規管活動在該保險期內並在該總保險單下，就指明風險投購款額不少於指明款額的保險並將之保持有效。
- (4) 每份獲證監會根據第 5 條核准的總保險單以及第 (1)(b) 款提述的保險單，均可指明款額不超過 \$3,000,000 的可扣除款額。
- (5) 為免生疑問，某指明持牌法團如須根據第 (2) 或 (3) 款為某類受規管活動投購保險並將之保持有效，則無須根據第 (1) 款為該類受規管活動投購保險並將之保持有效。

(2003 年第 45 號法律公告)

- (a) that master policy of insurance approved by the Commission; or
- (b) any other policy of insurance with one or more insurer that—
 - (i) is not a related corporation of the specified licensed corporation; and
 - (ii) has a specified credit rating on the date of commencement of the policy of insurance.
- (2) Where the Commission has approved a master policy of insurance under section 5(2)(a) in respect of a period of insurance for the regulated activity of dealing in securities, a specified licensed corporation that is an exchange participant of the Stock Exchange Company licensed for that regulated activity shall, in addition to an insurance (if any) that it is required to take out and maintain under other provisions of this section, take out and maintain insurance for that regulated activity in relation to the specified risks for not less than the specified amount during that period of insurance under that master policy of insurance.
- (3) Where the Commission has approved a master policy of insurance under section 5(2)(b) in respect of a period of insurance for the regulated activity of dealing in futures contracts, a specified licensed corporation that is an exchange participant of the Futures Exchange Company licensed for that regulated activity shall, in addition to an insurance (if any) that it is required to take out and maintain under other provisions of this section, take out and maintain insurance for that regulated activity in relation to the specified risks for not less than the specified amount during that period of insurance under that master policy of insurance.
- (4) Each master policy of insurance approved by the Commission under section 5 and the policy of insurance referred to in

5. 證監會可核准總保險單

- (1) 除根據第(2)款核准的保險單外，證監會可就某類受規管活動就某保險期核准一份保險單，作為所有就該類受規管活動獲發牌的指明持牌法團的總保險單。
- (2) 證監會可——(2003年第45號法律公告)
 - (a) 就屬證券交易的受規管活動就某保險期核准一份保險單，作為所有就該類受規管活動獲發牌的屬聯交所的交易所參與者的指明持牌法團的總保險單；及
 - (b) 就屬期貨合約交易的受規管活動就某保險期核准一份保險單，作為所有就該類受規管活動獲發牌的屬期交所的交易所參與者的指明持牌法團的總保險單。

subsection (1)(b) may specify a deductible amount not exceeding \$3,000,000.

- (5) For the avoidance of doubt, a specified licensed corporation shall not be required to take out and maintain insurance in relation to a regulated activity under subsection (1) where that specified licensed corporation is required to take out and maintain insurance for that regulated activity under subsection (2) or (3).

5. Commission may approve master policy of insurance

- (1) With the exception of the policies of insurance that may be approved under subsection (2), the Commission may, in respect of any period of insurance, approve one policy of insurance in respect of a regulated activity to be the master policy of insurance for all specified licensed corporations licensed for that regulated activity.
- (2) The Commission may, in respect of any period of insurance—
 - (a) approve one policy of insurance in respect of the regulated activity of dealing in securities to be the master policy of insurance for all specified licensed corporations that are exchange participants of the Stock Exchange Company licensed for that regulated activity; and
 - (b) approve one policy of insurance in respect of the regulated activity of dealing in futures contracts to be the master policy of insurance for all specified licensed corporations that are exchange participants of the Futures Exchange Company licensed for that regulated activity.

- (3) 除非總保險單的保險人(如總保險單是由多於一名保險人共同提供的,則每名保險人)在核准日期具有指明信貸評級,否則證監會不得根據本條核准該總保險單。

(2003 年第 45 號法律公告)

- (3) The Commission shall not approve a master policy of insurance under this section unless the insurer of the master policy of insurance (or, if the master policy of insurance is jointly undertaken by more than one insurer, each insurer) has the specified credit rating on the date of the approval.
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S1-1
第 571AI 章附表 1
第 1 條Schedule 1
Section 1S1-2
Cap. 571AI**附表 1**

[第 2 條]

指明風險

1. 指明持牌法團須根據本規則投購保險並將之保持有效所針對的風險，是因該法團就在香港進行某類受規管活動所收取或持有的客戶資產（包括由該法團的有聯繫實體所收取或持有的客戶資產）的可歸因於以下情況的損失所引起的損失風險——
- (a) 該指明持牌法團（或其有聯繫實體或服務單位）的僱員作出的欺詐或不誠實行為；
 - (b) 客戶資產在由該指明持牌法團（或其有聯繫實體）保管期間發生的搶劫或盜竊事件；
 - (c) 偽造支票或其他可流轉票據，或對支票或其他可流轉票據作欺詐性竄改；
 - (d) 欺詐性使用資訊系統；及
 - (e) 偽造關乎客戶資產的指示或作出關乎客戶資產的欺詐性指示。

Schedule 1

[s. 2]

Specified Risks

1. The risks in relation to which a specified licensed corporation shall take out and maintain insurance under these Rules are the risks of loss arising out of the loss of client assets that are received or held by the specified licensed corporation (including client assets that are received or held by an associated entity of the specified licensed corporation) in relation to its carrying on in Hong Kong of a regulated activity, attributable to—
- (a) fraudulent or dishonest conduct by employees of the specified licensed corporation (or its associated entity or service bureau);
 - (b) robbery or theft while the client assets are in the custody of the specified licensed corporation (or its associated entity);
 - (c) forgery or fraudulent alteration of a cheque or other negotiable instrument;
 - (d) fraudulent use of an information system; and
 - (e) forged or fraudulent instructions relating to the client assets.

S1-3
第 571AI 章附表 1
第 2 條Schedule 1
Section 2S1-4
Cap. 571AI

2. 就本附表而言——

服務單位 (service bureau) 就某指明持牌法團而言，指獲該法團轉授執行若干附帶於該法團進行的任何受規管活動的職能的責任的人；

僱員 (employee) 就某指明持牌法團 (或其有聯繫實體或服務單位) 而言，包括現時或曾經是該法團 (或其有聯繫實體或服務單位) 的僱員、高級人員或持牌代表的個人，或現時或曾經 (不論是根據服務合約或以其他方式) 獲該法團 (或其有聯繫實體或服務單位) 聘用的個人。

2. For the purposes of this Schedule—

employee (僱員), in relation to a specified licensed corporation (or its associated entity or service bureau), includes an individual who is or has been an employee, officer or licensed representative of, or who is or has been engaged whether under a contract of service or otherwise by, the specified licensed corporation (or its associated entity or service bureau);

service bureau (服務單位), in relation to a specified licensed corporation, means a person to whom the specified licensed corporation has delegated the duty to perform certain functions that are ancillary to the carrying on by the specified licensed corporation of any regulated activity.

附表 2

[第 2 條]

指明款額**第 1 部****在香港進行的受規管活動**

1. 凡某指明持牌法團獲發牌在香港進行一類受規管活動，則須就某保險期就該類受規管活動所引起的指明風險投購保險的投保額，是在第 2 部第 2 欄與該法團獲發牌在香港進行的該類受規管活動相對之處指明的款額。
2. 凡某指明持牌法團獲發牌在香港進行多於一類的受規管活動——
 - (a) (如該法團就所有該等受規管活動所引起的指明風險投購單一份保險單並將之保持有效)則須就某保險期為該法團獲發牌在香港進行的所有該等受規管活動投購保險的投保額是 \$25,000,000；
 - (b) (如該法團就每類該等受規管活動所引起的指明風險分別投購一份保險單並將之保持有效)則須就某保險期為每類有關受規管活動投購保險的投保額，是在第 2 部第 2 欄與該法團獲發牌在香港進行的該類有關受規管活動相對之處指明的款額。
3. 第 1 及 2 條提述的投保額，是須就可在任何保險期內提出的所有申索的合計總額保持有效的保險款額，而在該兩條的規限下，每項申索的款額並無上限。

Schedule 2

[s. 2]

Specified Amount**Part 1****Regulated Activities Carried on in Hong Kong**

1. Where a specified licensed corporation is licensed to carry on in Hong Kong one regulated activity, the insured amount in respect of a period of insurance for the specified risks arising out of that regulated activity shall be the amount specified in column 2 of Part 2 opposite to that regulated activity which it is licensed to carry on in Hong Kong.
2. Where a specified licensed corporation is licensed to carry on in Hong Kong more than one regulated activity—
 - (a) if it takes out and maintains a single policy of insurance for the specified risks arising out of all those regulated activities, the insured amount in respect of a period of insurance for all those regulated activities which it is licensed to carry on in Hong Kong shall be \$25,000,000;
 - (b) if it takes out and maintains a separate policy of insurance for the specified risks arising out of each of those regulated activities, the insured amount in respect of a period of insurance for each relevant regulated activity shall be the amount specified in column 2 of Part 2 opposite to that relevant regulated activity which it is licensed to carry on in Hong Kong.

S2-3
第 571AI 章

附表 2 —— 第 2 部

Schedule 2—Part 2

S2-4
Cap. 571AI**第 2 部**
投保額

受規管活動	投保額 (\$)
1. 證券交易	15,000,000
2. 期貨合約交易	15,000,000
3. 槓桿式外匯交易	零
4. 就證券提供意見	零
5. 就期貨合約提供意見	零
6. 就機構融資提供意見	零
7. 提供自動化交易服務	零
8. 提供證券保證金融資	15,000,000
9. 提供資產管理	零

在本部第 1 欄指明的每類受規管活動，均具有本條例附表 5 第 2 部給予該詞的涵義。

3. The insured amount referred to in sections 1 and 2 is the amount of insurance to be maintained in respect of the aggregate of all claims that may be made during any period of insurance and, subject to those sections, there shall be no limit on the amount of each claim.

Part 2
Insured Amount

Regulated activity	Insured amount (\$)
1. Dealing in securities	15,000,000
2. Dealing in futures contracts	15,000,000
3. Leveraged foreign exchange trading	Nil
4. Advising on securities	Nil
5. Advising on futures contracts	Nil
6. Advising on corporate finance	Nil
7. Providing automated trading services	Nil
8. Securities margin financing	15,000,000
9. Asset management	Nil

Each of the regulated activities specified in column 1 of this Part shall have the meaning assigned to it by Part 2 of Schedule 5 to the Ordinance.

S3-1
第 571AI 章

附表 3

Schedule 3

S3-2
Cap. 571AI

附表 3

[第 2 條]

指明信貸評級

1. 就長期保險財務實力而言，經穆迪投資者服務公司評定為 A 級或以上。
2. 就保險公司財政實力而言，經標準普爾公司評定為 A 級或以上。
3. 就保險公司財政實力而言，經惠譽國際評級有限公司評定為 A 級或以上。

Schedule 3

[s. 2]

Specified Credit Ratings

1. A Moody's Investors Service rating of A or above for Long-Term Insurance Financial Strength.
2. A Standard & Poor's Corporation rating of A or above for Insurer Financial Strength.
3. A Fitch Ratings Limited rating of A or above for Insurer Financial Strength.