

**L.N. 62 of 2023**

**Securities and Futures Ordinance (Amendment of  
Schedule 5) Notice 2023**

(Made by the Financial Secretary under section 142 of the Securities  
and Futures Ordinance (Cap. 571))

**1. Commencement**

This Notice comes into operation on 2 October 2024.

**2. Securities and Futures Ordinance amended**

The Securities and Futures Ordinance (Cap. 571) is amended as  
set out in section 3.

**3. Schedule 5 amended (regulated activities)**

(1) Schedule 5, Part 1, entry relating to Type 12—

**Repeal the full stop**

**Substitute a semicolon.**

(2) Schedule 5, Part 1, after entry relating to Type 12—

**Add**

“Type 13: providing depositary services for relevant  
CISs.”.

(3) Schedule 5, Part 2—

**Add in alphabetical order**

“*depositary* (存管人), in relation to a relevant CIS,  
means—

- (a) if the relevant CIS is constituted in the form of a trust—the person who is appointed as a trustee under the trust deed constituting or governing the relevant CIS; or
- (b) if the relevant CIS is constituted in any other form—
  - (i) the person who is appointed as the custodian (by whatever name called) of the relevant CIS under a written agreement entered into by the person with the relevant CIS; or
  - (ii) the person who, under an arrangement made with the relevant CIS, is in fact the custodian of the relevant CIS;

***providing depositary services for relevant CISs*** (為相關集體投資計劃提供存管服務) means providing both of the following services for 1 or more relevant CISs by a depositary (other than a delegate or subdelegate of the depositary, irrespective of whether the delegate or subdelegate is appointed by the depositary)—

- (a) the custody and safekeeping of relevant CIS property;
- (b) the oversight of the relevant CIS to ensure that it is operated in accordance with its scheme documents;

***relevant CIS*** (相關集體投資計劃) means a collective investment scheme authorized under section 104 other than any of the following—

- (a) a registered scheme as defined by section 2(1) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485), or a constituent fund (as defined by that section 2(1)) of the registered scheme;
- (b) an approved pooled investment fund as defined by section 2 of the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A) that is offered only to all or any of the following—
  - (i) professional investors;
  - (ii) employers as defined by section 2(1) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485);
  - (iii) pooling agreements as defined by section 2(4) of the Occupational Retirement Schemes Ordinance (Cap. 426);

***relevant CIS property*** (相關集體投資計劃財產), in relation to a relevant CIS, means—

- (a) if the relevant CIS is constituted in the form of a trust—the property held on or subject to trust under the trust deed constituting or governing the relevant CIS; or
- (b) if the relevant CIS is constituted in any other form—the property of the relevant CIS;

***scheme documents*** (計劃文件), in relation to a relevant CIS, means—

- (a) if the relevant CIS is constituted in the form of a trust—the trust deed constituting or governing the relevant CIS;

- (b) if the relevant CIS is constituted in any other form—the documents governing the formation or constitution of the relevant CIS; and
- (c) other documents setting out the requirements relating to—
  - (i) the custody and safekeeping of any relevant CIS property; or
  - (ii) the oversight of the operations of the relevant CIS;”.

Paul CHAN Mo-po  
Financial Secretary

20 March 2023

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## **Explanatory Note**

The purpose of this Notice is to add a new type of regulated activity, namely “providing depository services for relevant CISs”, to Part 1 of Schedule 5 to the Securities and Futures Ordinance (Cap. 571). The objective of the addition is to create a licensing regime and related legal and regulatory obligations for trustees and custodians (and their representatives) providing depository services for 1 or more relevant CISs in Hong Kong.