

**New Hong Kong Selling Restrictions from 13 May 2011
Standard Form**

**Agreed between Allen & Overy, Clifford Chance, Freshfields Bruckhaus
Deringer, Linklaters, Mallesons Stephen Jaques, Simmons & Simmons
and Slaughter and May**

The changed form of restrictions (as they would apply to an international institutional offering of shares, bonds or notes drawn down off a programme, whether the issuer is incorporated in Hong Kong or outside Hong Kong) is as follows:

Each [Manager] [Dealer] has represented and agreed that:	
1	it has not offered or sold and will not offer or sell in Hong Kong, by means of any document, any [Securities] [(except for [Securities] which are a “structured product” as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong) ¹] other than (a) to “professional investors” as defined in the Securities and Futures Ordinance [(Cap. 571) of Hong Kong] ² and any rules made under that Ordinance; or (b) in other circumstances which do not result in the document being a “prospectus” as defined in the Companies Ordinance (Cap. 32) of Hong Kong or which do not constitute an offer to the public within the meaning of that Ordinance; and
2	it has not issued or had in its possession for the purposes of issue, and will not issue or have in its possession for the purposes of issue, whether in Hong Kong or elsewhere, any advertisement, invitation or document relating to the [Securities], which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to [Securities] which are or are intended to be disposed of only to persons outside Hong Kong or only to “professional investors” as defined in the Securities and Futures Ordinance [(Cap. 571) of Hong Kong] ³ and any rules made under that Ordinance.

How to use the standard form

For a standalone offering, or a drawdown of specific Securities:

If the Securities are either shares or debentures and are not structured products, include both Limb 1 and Limb 2; delete the words in red (and include the words in green; omit the words in blue).

If the Securities are structured products, delete Limb 1 (the Companies Ordinance restriction); only Limb 2 (the SFO restriction) applies. Include the words in blue.

Where the selling restriction is included in a programme:

¹ Include the words in red if the Securities could include structured products: for example in an MTN programme which permits drawdown of both vanilla and structured notes.

² Omit the words in green if the words in red referred to in footnote 1 are included.

³ Include the words in blue if Limb 1 of the selling restriction is not included.

If the programme provides for the issue only of vanilla debentures, and does not provide for the issue of any structured products, include both Limb 1 and Limb 2; delete the words in red (and include the words in green; omit the words in blue).

If the programme permits the issue of structured products, include both Limb 1 and Limb 2; include the words in red; omit the words in green and in blue.

Variations to the standard form

It is intended that this form will normally be used for standard offerings of shares or debentures by companies in the international institutional market. Other types of transactions may require adjustments to the language to suit circumstances.

In offerings by a non-Hong Kong incorporated company only, it is not wrong to include as an additional carve out in paragraph 1 a reference to “persons whose ordinary business is to buy or sell shares or debentures, whether as principal or agent”. If a manager or issuer client prefers to see this language, it may be included.

Other stylistic variations may also be necessary – and are unobjectionable – to conform to the style or conventions used in a document or to the house style of a law firm (for example the way Ordinances are referred to). Generally in these cases “draftsman’s privilege” applies and the style preferred by the law firm with drafting responsibility for the document should be accepted.