
ASIFMA Standard Form Agreements Among Underwriters and Intersyndicate Agreements

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Background:

- There are currently no industry standard forms of agreements among underwriters or intersyndicate agreements in Hong Kong, so when such agreements are prepared they are often based on a precedent. Accordingly, terms in the agreements may not be carefully scrutinized, and the agreements may contain terms that are not relevant or ambiguous.
- Agreements are often prepared and agreed late in the offering process, and in some cases the agreements may not be executed until after the offering has priced and closed.
- If execution of the agreements is delayed, syndicate members do not benefit from any of the terms of the agreements.

ASIFMA Standard Forms:

- ASIFMA's ECM committee (the "Committee"), working with Slaughter and May, created a new set of standard form agreements to be used in connection with Hong Kong IPOs in order to promote efficiency, reduce costs of external counsel, improve the drafting and effectiveness of their terms and facilitate the timely preparation and execution of such agreements.
- The agreements have been carefully reviewed – eliminating terms that are no longer relevant and clarifying those that were ambiguous.
- The set of agreements includes:
 - Agreement Among Hong Kong Underwriters ("AAHKU");
 - Agreement Among International Underwriters ("AAIU"); and
 - Agreement between International and Hong Kong Underwriting Syndicates ("Intersyndicate Agreement" and, together with the AAHKU and the AAIU, the "Agreements").

Structure and Use of the Agreements:

- Members of the Committee recognized that many of the legal terms in the Agreements are non-controversial and typically are not subject to significant negotiation, while commercial terms in the agreements are often subject to more extensive negotiations. Therefore, the Committee structured the Agreements such that commercial terms are set out in schedules to the agreements.
- This structure allows for the Agreements to take effect upon signing, providing certain legal protections to the members of the syndicate while providing flexibility on the commercial terms.
- The Committee observed that market practice currently involves a set of agreements being individually prepared for each transaction, individually negotiated and individually printed/executed.
- The Committee recognized that there is an alternative way of designing the Agreements to follow a model used successfully by ICMA, where the Agreements exist as forms of agreements that would reside on a website (in this case ASIFMA's website) and parties could incorporate by reference those terms into a separate document and modify such terms as needed or appropriate in this separate document.

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Instructions for Preparation and Execution:

1. Navigate to ASIFMA's ECM Resources [website](#).
2. Download (a) the Adoption Agreement and Schedules for the AAIU; (b) the Adoption Agreement and Schedules for the AAHKU and (c) the Adoption Agreement for the Intersyndicate Agreement.
3. Modify the Adoption Agreements and Schedules for the AAIU and the AAHKU for the specifics of the proposed Hong Kong IPO.
4. Send the Adoption Agreements and Schedules to the Joint Global Coordinators for input and/or confirmation of the information in the Schedules.
5. Following confirmation by the Joint Global Coordinators, distribute the Adoption Agreements and Schedules to all of the underwriters in the syndicate.
6. At pricing, execute each of the Adoption Agreements and Schedules.

* Note: You may either have the Adoption Agreement and Schedules reference the standard forms of each of the AAIU, AAHKU and Intersyndicate Agreement on ASIFMA's website or download each of the Agreements and attach them to the Adoption Agreements and Schedules.

Contact information

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