

# HONG KONG COMPANIES ORDINANCE UPDATE: PROTECTED INFORMATION OF DIRECTORS

This briefing highlights the upcoming measures aimed at protecting certain sensitive information of directors of Hong Kong-incorporated companies (**HK Companies**) and registered non-Hong Kong companies (**Non-HK Companies**), and the actions that companies should take in light of the new regime.

## Overview

The Hong Kong **Companies Registry (CR)** is implementing, in three phases, the new “inspection regime” under the Hong Kong Companies Ordinance (**CO**) to withhold the usual residential address and full ID number (the **Protected Information**) of natural person directors and company secretaries from public inspection.

Since the start of Phase 1 on 23 August 2021, HK Companies may choose to disclose correspondence addresses of directors and partial ID numbers of directors and company secretaries (instead of the Protected Information) in relation to searches of their own registers.

Phase 2 will commence on 24 October 2022. This will impact company searches on the CR’s Register, filing requirements, and the company’s own registers:

- **Company searches** - the CR will replace the Protected Information on its **Index of Directors** with correspondence addresses and partial ID numbers. The default correspondence address will be, in the case of HK Companies, its registered office address, and in the case of Non-HK Companies, its principal place of business in Hong Kong. Directors can choose a correspondence address which is different from the registered office address / principal place of business. This would trigger an extra filing (see below for detail).

Protected Information in documents filed from 24 October 2022 will not be provided for public inspection. However, “specified persons” (which include, amongst others, members of the company, persons authorised by the data subject, licensed company service providers, financial institutions and practising certified public accountants and solicitors) can apply to the CR to access Protected Information. Protected Information contained in documents filed **before** 24 October 2022 will not be withheld during Phase 2 - see details on Phase 3 below.

- **Company filings** - the CR has revised 26 **specified forms** (including the Annual Return) for use from 24 October 2022. The forms will ask for correspondence addresses and partial ID numbers, and a “PI-Form” will be added to the relevant forms to report the Protected Information (but will not be available for general public inspection). Any change to the Protected Information (such as a change in a director’s usual residential address) will still require a filing to the CR, with the Protected Information contained in the PI-Form.
- **Company registers** - the Register of Directors of a HK Company must contain the correspondence address of its natural person director(s) before its first **annual return date** on or after 24 October 2022. Failing which, the company, and every responsible person of the company commit an offence, and liable to fines for every day the offence continues.

Phase 3 will commence on 27 December 2023 - from this date, data subjects can choose to apply to the CR to withhold Protected Information from documents filed prior to 24 October 2022. It will otherwise not be withheld. The CR will publish further details on Phase 3 in due course.

## Phase 2 Action Points

	Action	Comment
1.	Confirm directors' correspondence addresses	We would expect in most cases this would involve asking directors to confirm if they are happy for their correspondence address to be (in the case of HK Companies) the registered office address, or (in the case of Non-HK Companies) the principal place of business in Hong Kong. If this address is provided by a third party service provider, check if any extra fees apply.  If another address is chosen, see step 3 below.
2.	Include directors' correspondence addresses in the company's Register of Directors	For Hong Kong Companies, this must be done before its <b>first annual return date</b> on or after 24 October 2022. For Non-HK Companies, any requirements in relation to updating of company registers will be a matter of the overseas law.
3.	File Form ND2B / NN7 with the CR if a director's correspondence address in the Register of Directors is <b>not</b> the company's registered office address / principal place of business	For HK Companies, this should be filed within 15 days after 24 October 2022 if, immediately before 24 October 2022, the correspondence address in the Register of Directors is not the registered office address. If the correspondence address is added to the Register of Directors after 24 October 2022, the filing deadline will be 15 days after its inclusion.  For non-HK companies, the deadline is one month (instead of 15 days) if the correspondence address is not the principal place of business in HK.
4.	Set up a duplicate of the Register of Directors and Register of Company Secretaries with the Protected Information redacted	While the original registers should contain the Protected Information, the duplicate will assist with keeping the Protected Information private from searches of the company's own registers.
5.	Use new specified forms from the CR website from 24 October 2022	The CR will only accept filings of the revised specified forms from the start of Phase 2
6.	Start considering if application to CR will be made to withhold any Protected Information contained in documents filed prior to 24 October 2022	Such application can only be made from <b>27 December 2023</b> .

Please contact your usual Slaughter and May contact if you have any queries on the new regime.

## CONTACT



**CLARA CHOI**  
PARTNER  
T: +852 2901 7217  
E: [clara.choi@slaughterandmay.com](mailto:clara.choi@slaughterandmay.com)

**London**  
T +44 (0)20 7600 1200  
F +44 (0)20 7090 5000

**Brussels**  
T +32 (0)2 737 94 00  
F +32 (0)2 737 94 01

**Hong Kong**  
T +852 2521 0551  
F +852 2845 2125

**Beijing**  
T +86 10 5965 0600  
F +86 10 5965 0650

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