

# Financial Services Scenario: REGULATORY INVESTIGATION

As part of your role as in-house legal counsel or compliance manager in a Financial Institution (FI), you are informed that your entity is part of a regulatory investigation in its preliminary stage. Prior to identifying the extent of the investigation and its impact on the FI's reputation, you need to quickly understand:

- the FI's obligations under Hong Kong's regulatory architecture
- the ramifications of the investigation at the global level
- how best to mitigate the impact, firstly by avoiding any legal proceedings in case of any potential wrongdoing

Lexis Practical Guidance Financial Services provides you with the key resources to evaluate your current situation under the Hong Kong legislative and regulatory framework and assess your legal and operational risks accordingly.

# 1

Lexis Practical Guidance Financial Services > View Topics > Enforcement and redress > Investigations

The screenshot displays the Lexis Practical Guidance HONG KONG FINANCIAL SERVICES website interface. At the top, there is a search bar labeled 'Search all subscribed practice areas' and a 'Go' button. Below the search bar, a 'View topics' dropdown menu is open, showing a grid of various practice areas. The 'Enforcement and redress' category is highlighted, and within it, the 'Investigations' sub-category is selected and highlighted with a blue bar. Other categories visible include Key developments, Regulatory architecture, Regulated activities, Authorisation, approval and supervision, Prudential requirements, Conduct risk, Risk management and controls, Financial crime, Retail business requirements, Markets and trading, Funds and asset management, Insurance, Enforcement, Taxation of finance, International taxation, Cross-border (HK - PRC), and Cross jurisdictional guides.

The **Enforcement and redress** topic guides the user through the different scenarios in which a regulatory investigation would be applicable under the relevant local regulatory framework as dictated by its authorities, with a specific focus on the key local regulator for financial markets – the Securities and Futures Commission (SFC).

The **Investigations** subtopic contains the relevant information you need.

There are several Practice Notes which are relevant to an SFC investigation; a good starting point is **Triggering a Securities and Futures Commission Investigation**.

### Triggering a Securities and Futures Commission investigation

This Practice Note discusses how information comes to the attention of the Securities and Futures Commission (SFC), the statutory triggers for a SFC investigation, the contents of a typical SFC notice and its jurisdictional limitations.

**Key sections:** [How does information come to the attention of the Securities and Futures Commission?](#) | [Self-reporting obligations of licensed and registered persons](#) | [Statutory triggers for a Securities and Futures Commission investigation](#) | [Other statutory powers of investigation](#) | [Search warrants](#) | [Notice from the SFC](#) | [Jurisdiction](#)

This Practice Note outlines how information comes to the attention of the regulatory authority, providing important insight on the initial assessment of where the institution stands at a preliminary stage. This is especially important in the initial process of gathering information, documentation and data in the time prior to and during an investigation

### Triggering a Securities and Futures Commission investigation

Produced in partnership with [Reed Smith Richards Butler](#)

The Securities and Futures Commission (SFC) regulates Hong Kong's securities and futures markets. Its powers and duties are defined by the Securities and Futures Ordinance (Cap 571) (SFO) and subsidiary legislation.

#### How does information come to the attention of the Securities and Futures Commission?

Typically, the SFC becomes aware of information suggesting misconduct in the securities and futures markets through:

- observing, monitoring and analysing market events and public reports

#### Practice notes

MAINTAINED

Found in: [Hong Kong Financial Services](#)

#### Related documents

Practice Notes	4
Checklists, diagrams & flowcharts	1

# 3

Depending on the operations and nature of the FI, it may be subject to investigations by more than a single regulator. A related checklist, [Investigative powers – a summary](#), highlights the investigative powers of all local players under the Hong Kong regulatory framework applicable to FIs at a glance:

### Investigative powers – a summary

Produced in partnership with [Debevoise & Plimpton](#)

Powers	Securities and Futures Commission (SFC)	Hong Kong Exchanges and Clearings Limited (HKEx)	Independent Commission against Corruption (ICAC)	Hong Kong Monetary Authority (HKMA)
Who conducts the investigations	Enforcement Division	Listing Division	Operations Department	Enforcement Department
Who are required to assist in investigations?	Any person	Listed entities, their directors and other parties, such as sponsors	Any person	Authorised institutions, local representative offices of overseas banks and money brokers
Does the institution request production of records and documents?	Yes	Yes	Yes	Yes
Does the institution conduct interviews?	Yes	No explicit power, but may request meetings	Yes	Yes

Checklists

MAINTAINED

Found in: [Hong Kong Financial Services](#)

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Related documents

Practice Notes 1

» [Co-operation between the Securities and Futures Commission \(SFC\) and overseas regulators](#)

Given the highly cross-border nature of most financial transactions and dealings and the international presence of most FIs, it is important to evaluate the institution’s exposure to regulators at the global level.

# 4

The related Practice Note, accessed from the checklist related documents - [Cooperation between the Securities and Futures Commission \(SFC\) and overseas regulators](#) takes the user through the collaboration between the SFC and international regulators, as well as the relevant implications from an FI’s perspective:

### Cooperation between the Securities and Futures Commission (SFC) and overseas regulators

This Practice Note examines cross-border cooperation between the Securities and Futures Commission (SFC) and the China Securities Regulatory Commission (CSRC) and the SFC’s power to assist overseas regulators under the Securities and Futures Ordinance (SFO) (Cap 571) and extradition.

**Key sections:** [Cooperation arrangements between the Securities and Futures Commission and the China Securities Regulatory Commission](#) | [Assistance to overseas regulators under the Securities and Futures Ordinance \(Cap 571\)](#) | [Proposed amendments to the Securities and Futures Ordinance \(Cap 571\)](#) | [Extradition](#)

In order to assist the user, reference icons link to the source, such as the full legislation, providing access to it at a simple click. Related documents are also highlighted and quick links provided, along with related Practice Notes:

**Cooperation between the Securities and Futures Commission (SFC) and overseas regulators**

This Practice Note examines cross-border cooperation between the Securities and Futures Commission (SFC) and the China Securities Regulatory Commission (CSRC) and the SFC's power to assist overseas regulators under the Securities and Futures Ordinance (SFO) (Cap 571) and extradition.

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Practice notes

**MAINTAINED**

Found in: [Hong Kong Financial Services](#)

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**Related documents**

Practice Notes 3

- [» Request for documents](#)
- [» Search and seizure](#)
- [» Statutory interviews](#)

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**THIS IS NOT THE ONLY WAY TO FIND THE RELEVANT INFORMATION** – from the homepage, you could use key search words to find the same material: [SFC investigation](#)

Home > [Hong Kong Financial Services](#) > Search Results

**Refine results** Clear all

Select one or more practice areas and/or one or more document types to refine your search.

▼ Practice areas (8) Clear

- [Hong Kong Commercial](#) (7)
- [Hong Kong Corporate](#) (44)
- [Hong Kong Data Protection](#) (4)
- [Hong Kong Dispute Resolution](#) (15)
- [Hong Kong Employment](#) (2)
- [Hong Kong Financial Services](#) (91)
- [Hong Kong Private Client](#) (3)
- [Hong Kong Tax](#) (3)

**Search results** \* Subscribed practice areas

(131 results)

- 1 [SFC reprimands and fines iSTAR International Futures Co Limited HK\\$3 million over a...](#)
  - News
  - An **SFC investigation** found that between January and July 2014, the iSTAR International Futures Co Limited failed **18.04.2017** • HKPG - Financial Services News Analysis [Hong Kong Financial Services Found in Hong Kong Corporate](#)
- 2 [SFC – investigation powers](#)
  - Practice notes
  - The Securities and Futures Commission (**SFC**) is given a wide range of powers to conduct **investigations** pursuant **MAINTAINED** • [Hong Kong Financial Services](#)
- 3 [Triggering a Securities and Futures Commission investigation](#)
  - Practice notes
  - This Practice Note discusses how information comes to the attention of the Securities and Futures Commission **MAINTAINED** • [Hong Kong Financial Services](#)

The most relevant Practice Notes appear as the top results. Users are additionally able to filter out their results either by “Document type” as well as “Practice area” through the corresponding boxes on the left-hand side.



# Financial Services Scenario: PRIVATE EQUITY AND VENTURE CAPITAL FUND STRUCTURES

Your client is a Hong Kong-based manager who is interested in private equity and venture capital fund investment. They are seeking your advice on how to get started, and what a typical fund structure looks like, in order to make an informed decision. Practical Guidance Financial Services provides you with a variety of ways to obtain this information quickly and efficiently.

# 1

Lexis Practical Guidance Financial Services > View Topics > Funds and asset management > Private equity and venture capital funds

The screenshot shows the Lexis Practical Guidance HONG KONG FINANCIAL SERVICES website. The page is titled "Lexis® Practical Guidance HONG KONG FINANCIAL SERVICES" with a "CHANGE" link. Below the title is a navigation bar with "View topics" and a search box. The main content area is a grid of topics. The "Funds and asset management" topic is highlighted in blue, and its subtopic "Private equity and venture capital funds" is also highlighted in blue. A blue line connects the "1" on the left to the "Private equity and venture capital funds" subtopic.

View topics ▾	Search all subscribed practice areas			Options	Go ▶
<b>Key developments</b> News and analysis	<b>Risk management and controls</b> Corporate governance and complia... Systems and controls Employee and client misconduct	<b>Markets and trading</b> Shanghai Hong Kong Stock Connect Market conduct Listing on SEHK Financial stability and market confid.. Derivatives Credit rating agencies Short selling Recognised investment exchanges Prime brokerage	<b>Enforcement</b> Conduct regulation of insurance int.. Debt financing		
<b>Regulatory architecture</b> Hong Kong Monetary Authority Hong Kong Securities and Futures ... Hong Kong Exchanges and Clearing Independent Commission Against ... Office of the Privacy Commissioner ...	<b>Financial crime</b> Introduction AML/CFT Bribery & corruption Data security Market abuse	<b>Funds and asset management</b> General funds information Regulated funds Private equity and venture capital fu... Hedge funds Collective investment schemes	<b>Taxation of finance</b> Debt financing Derivatives		
<b>Regulated activities</b> Licensing	<b>Retail business requirements</b> Conduct of business Investment and crowdfunding platfo...	<b>Insurance</b> Insurance regulation essentials Prudential regulation of insurers Conduct regulation of insurers	<b>International taxation</b> FATCA Tax information exchange Double tax treaties Islamic finance and tax		
<b>Authorisation, approval and supervision</b> Transaction reporting	<b>Enforcement and redress</b> Investigations Enforcement Complaints against firms Complaints against regulators		<b>Cross-border (HK - PRC)</b> Cross-border investment		
<b>Prudential requirements</b> Capital and liquidity			<b>Cross jurisdictional guides</b> International Comparator Tool Getting the Deal Through guides Asia and Pacific guides Offshore guides		
<b>Conduct risk</b> Financial promotions Client assets					

The [Funds and asset management](#) topic guides the reader through the different types of investment funds, their definition, management structure, as well as other taxation and regulatory aspects.

Specific resources to relevant to [Private equity and venture capital funds](#) can be found under the subtopic bearing the same name.



The relevant Practice Note – [The structure of the private equity and venture capital vehicle](#) provides details on commonly used structures of private equity and venture capital fund vehicles from a Hong Kong perspective, and generally required documentation.

### The structure of the private equity and venture capital vehicle

This Practice Note explores the spectrum of options in structuring private equity and venture capital fund vehicles. It also focuses on the various structures commonly used in Hong Kong and discusses typical fund documentations.

**Key sections:** [Structuring a private equity and venture capital fund](#)  
| [Commonly used structures in Hong Kong](#) | [Private equity and venture capital fund documentations](#)

### Commonly used structures in Hong Kong

The Cayman Islands, the British Virgin Islands and the Bermuda are commonly used jurisdictions for private equity and venture capital funds managed by Hong Kong managers, with Cayman exempted limited partnerships being the most popular structure. Hong Kong partnership is generally not a suitable vehicle due to the requirement of a registration fee of HK\$8 for each HK\$1,000 contributed. Occasionally, Hong Kong limited companies are used as the fund vehicle, but it is very uncommon.

A typical private equity or venture capital fund vehicle managed or advised in Hong Kong is an exempted limited partnership registered in the Cayman Islands. An exempted limited partnership must consist of at least one general partner whose liability for all of the debts and obligations of the exempted limited partnership is unlimited if the fund's assets are inadequate to satisfy the claims of its creditors, and at least one limited partner who is generally not liable for the debts or obligations of the exempted limited partnership except to the extent provided in the limited partnership agreement or the law.

Relevant legislation is highlighted and hyperlinked for easy usage.

### Private equity and venture capital fund documentations

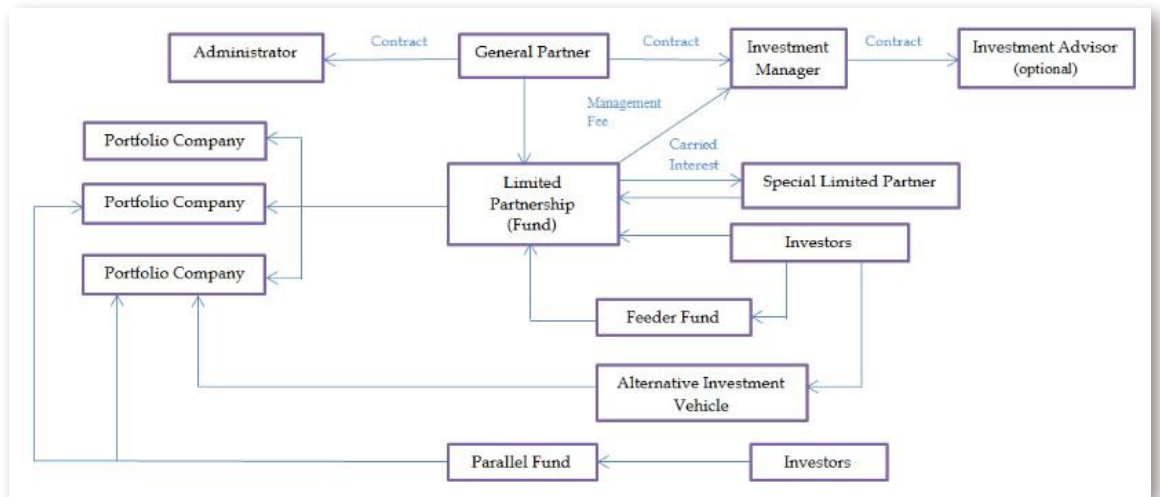
A typical privately placed Hong Kong private equity or venture fund in form of a Cayman exempted limited partnership will generally require the following key documents:

- offering memorandum or private placement memorandum:
  - the offering memorandum or private placement memorandum provides a detailed description of the investment objectives and strategy, information of the general partner and investment manager or advisor, along with the credential of the key personnel, fee structure, capital structure of the fund vehicle, subscription procedures and risk factors
- limited partnership agreement:
  - the limited partnership agreement sets out the investment objectives and restrictions of the fund, the amount of capital to be raised, the admission of limited partners, capital contribution procedures, consequences of default in making contributions, appointment, removal and powers of the general partner, accounting practice and other governance issues

Practical Guidance Practice Notes are written to be clear and easily digestible – this Practice Note features a bulleted list of the key documents required for the formation of a commonly used Cayman limited partnership vehicle fund, along with a detailed description of their contents.

# 3

One of the related documents linked to from this Practice Note is the Flowchart [A typical private equity fund structure for a Hong Kong-based manager or advisor](#). It provides additional visualisation of a typical fund structure, depending on the legal form of the investment vehicle, such as a limited partnership.



**THIS IS NOT THE ONLY WAY TO FIND THE RELEVANT INFORMATION** – from the homepage, it is possible to use key search terms to find the same material: [private equity fund structure](#)

# 4

**Refine results** Clear all  
Select one or more practice areas and/or one or more document types to refine your search.

**Practice areas (7)** Clear

- Hong Kong Commercial (30)
- Hong Kong Corporate (29)
- Hong Kong Dispute Resolution (20)
- Hong Kong Employment (3)
- Hong Kong Financial Services (29)
- Hong Kong Private Client (16)
- Hong Kong Tax (15)

**Document types (7)** Clear

- Cases & decisions (34)

**Search results** \* Subscribed practice areas  
(114 results)

- Private equity funds – structure (Part I)**  
Practice notes  
This Practice Note sets out an overview on the typical structures for private equity funds set up by Hong Kong-  
MAINTAINED • Hong Kong Financial Services
- Private equity funds – structure (Part II)**  
Practice notes  
This Practice Note sets out the second part of an overview on the typical structures for private equity funds set up  
MAINTAINED • Hong Kong Financial Services
- A typical private equity fund structure for a Hong Kong-based manager or advisor**  
Flowcharts  
This flowchart depicts the structure of a typical private equity fund for a Hong Kong-based manager or advisor of a  
MAINTAINED • Hong Kong Financial Services
- Management structure of private equity and venture capital funds**  
Practice notes

The most relevant Practice Notes and Flowchart appear as the top results. Users are additionally able to filter out their results either by “Document type” as well as “Practice area” through the corresponding boxes on the left-hand side.