

Hong Kong Derivatives

Law and Practice

Chin-Chong Liew

LLB (VUW), BCL (Oxon), CFA

Partner, Linklaters

I-Ping Soong

BA (Oxon)

Solicitor, Linklaters

LexisNexis

Hong Kong • Singapore • Malaysia • India

2010

The Members of the LexisNexis Group worldwide

Hong Kong	LexisNexis, Hong Kong 39/F, Hopewell Centre, 183 Queen's Road, East
Singapore	LexisNexis, Singapore 3 Killiney Road #08-08 Winsland House I Singapore 239519
Malaysia	LexisNexis Malaysia Sdn Bhd T1-6, Jaya 33 3, Jalan Semangat, Seksyen 13 46100 Petaling Jaya Selangor Darul Ehsan
India	Butterworths Wadhwa Nagpur 14th Floor, Building No 10, DLF Cyber City, Phase-II, Gurgaon, Haryana, India 122002
Argentina	LexisNexis Argentina, Buenos Aires
Australia	LexisNexis Butterworths, Chatswood, New South Wales
Austria	LexisNexis Verlag ARD Orac GmbH & Co KG, Vienna
Canada	LexisNexis Butterworths, Markham, Ontario
Chile	LexisNexis Chile Ltda, Santiago De Chile
Czech Republic	Nakladatelství Orac sro, Prague
France	Editions du Juris-Classeur SA, Paris
Ireland	Butterworths (Ireland) Ltd, Dublin
Italy	Giuffrè Editore, Milan
New Zealand	Butterworths of New Zealand, Wellington
PRC	LexisNexis Beijing Representative Office, Beijing
Poland	Wydawnictwo Prawnicze LexisNexis, Warsaw
South Africa	Butterworths SA, Durban
Switzerland	Stämpfli Verlag AG, Berne
United Kingdom	LexisNexis Butterworths Tolley, London and Edinburgh
USA	LexisNexis, Dayton, Ohio

© LexisNexis 2010

All rights reserved. No part of this publication may be reproduced, or transmitted in any form or by any means, including photocopying and recording, without the written permission of the copyright holder, application for which should be addressed to the publisher. Such written permission must also be obtained before any part of this publication is stored in a retrieval system of any nature.

ISBN: 978-988-8016-67-9

Printed in China.

Publisher's Note

The publisher, authors, contributors and endorsers of this publication each excludes liability for loss suffered by any person resulting in any way from the use of, or reliance on, this publication.

Hong Kong Derivatives
Law and Practice

Preface

Derivatives have always played an important role in any financial centre, but are especially important in Hong Kong given Hong Kong's role as a key financial hub in Asia. With a culture of innovation and entrepreneurialism, Hong Kong has always served well as the launching pad for innovative new derivative products in the local, as well as the wider Asia Pacific markets.

When the idea for this book was first conceived in 2006, derivatives did not enjoy the same level of public attention as they do now. However, the tumultuous events of 2008, beginning with the collapse of Lehman Brothers Holdings Inc and culminating in the global financial crisis, have thrown these products very much into the spotlight. Though derivative products will continue to play a key role in our financial markets, recent events have made market participants more aware of the critical need to understand and manage the risks of entering into such products. Hopefully, this is something that this book can help address.

The current interest in derivatives has made this book timely, but has also made the job of writing it more challenging. As we write, certain legal fundamentals in relation to derivative products (and, in particular, the regulatory framework) are going through a process of evolution and reassessment. In many major jurisdictions such as the United States and the European Union, sweeping changes are underway, including the creation of regulatory bodies specifically tasked with regulating derivatives, the requirement for over-the-counter derivatives to be 'standardised' and cleared through central clearing counterparties, the imposition of higher regulatory capital for entities that enter into derivatives and many more. Although the main arenas for such debate have largely been outside Hong Kong, as a key player in the world economy, Hong Kong is very much influenced by events in other major financial centres and these events are likely to have an impact in the local and regional markets.

The most significant repercussion of the global financial crisis in Hong Kong has been the Lehman Minibonds incident and its disastrous impact on investors in retail structured products. This has spurred reform as to the authorization framework for retail structured products and has also sped up efforts to harmonise the different pieces of legislation that exist in this area. This process is underway and will continue over the next few years. We have attempted to reflect as many of these potential changes as possible.

years. We have attempted to reflect as many of these potential changes as possible.

In terms of organisation, this book is divided into two parts.

Part 1 (Chapters 1 to 9) has as its focus certain core areas of Hong Kong law that are of fundamental importance to derivatives. In fact, there is no one single body of law known as ‘derivatives law’; rather, this area of law straddles across corporate law (capacity and authority in Chapter 2), regulatory and securities law (licensing and marketing restrictions in Chapter 3 and Chapter 4 respectively), insolvency law (netting and collateral in Chapter 5 and Chapter 6 respectively), commercial law (collateral in Chapter 6), tax law (taxation in Chapter 7), conflicts of law (governing law and enforcement of judgment in Chapter 8), as well as intellectual property law (Chapter 9). Whilst many of these core concepts are well established, readers will find that they may apply differently to derivative products. In addition, we hope that readers will also find these discussions generally helpful in the context of conducting other financial transactions under Hong Kong law.

Part 2 (Chapters 10 to 15) looks at specific types of derivative products by providing an explanation of how these products work and a detailed discussion on particular legal and regulatory issues that apply. These specific derivative products include currency, interest rate and bond derivatives (Chapter 10), equity derivatives (Chapter 11), credit derivatives (Chapter 12), commodity derivatives (Chapter 13), retail structured products (Chapter 14) and repos and stock loans (Chapter 15). As practitioners in Hong Kong frequently have to deal with derivatives products in a regional context (and not just the Hong Kong markets), Part 2 also looks at key issues that have arisen in relation to these specific derivative products in the Asia Pacific region. It is not our objective to cover the documentation aspects of these specific derivative products in detail given that they are not specific to Hong Kong or the Asia Pacific region and have been extensively discussed elsewhere (most notably in Simon Firth’s erudite and comprehensive work, *Derivatives, Law and Practice*, Looseleaf, Sweet & Maxwell 2009). However, to the extent appropriate, we have endeavoured to give an overview of the basic documentation framework of these specific derivative products solely to aid a general understanding of these products.

Appendix 1 is a glossary of terms used throughout the book that specifically relate to derivatives. Appendix 2 provides an introduction to derivatives which may be a useful guide to those practitioners or students who are foraying into derivatives and structured products for the first time. The 1992 and 2002 ISDA Master Agreements, which have been reproduced in Appendix 3, are the market-standard documents for derivative transactions worldwide.

The law and practice is as stated at 31st December 2009. We have unfortunately not been able to consider developments after this date.

We hope that this book will benefit derivatives practitioners who would like to know more about issues particular to Hong Kong and the Asia Pacific region. It is also hoped that this book will be of use to legal practitioners in other areas who wish to have an insight into derivatives-related issues and also to law students of financial law related subjects.

We would not have been able to write this text without the generous help of a number of friends and colleagues at Linklaters as well as outside the firm. We are especially grateful to Joseph Chow, Karen Yung, Aditya Mehta, Kenneth Lee and Marcus Au Yeung who provided invaluable input throughout this project helping us produce and refine our work. We also thank Karen Lam, Monica Chiu, Maggie Tsui, Calvin Chan, Koo Tin Yan, Julie van Nuffel, Susanna Wong, Akash Mohapatra, Rhian Roberts, Victor Wan, Christine Wong, Andrew Malcolm and Toby Gray for reviewing the manuscripts and sharing their views with us. There are also many friends, colleagues and clients out there (too many to list) who have helped shape or otherwise inspired our thinking and approach to this subject to whom we owe gratitude. That said, any errors and omissions are our sole responsibility.

Lastly, this endeavour would not have been possible without the support and understanding of our respective families, namely May, Ellen and Megan, in the case of Chong, and Simon, Thomas and Christopher, in the case of I-Ping, to whom we dedicate this book.

Chin-Chong Liew and I-Ping Soong
Hong Kong
January 2010

About the Authors

Chin-Chong Liew is the Head of the Derivatives and Structured Products Group, Asia (ex-Japan) at Linklaters in Hong Kong. Chong has over 20 years experience in a full range of derivatives and structured products across Asia and is a widely recognised market leader in this field. He has acted as legal advisor to the International Swaps and Derivatives Association Inc (ISDA) in Asia-Pacific since 1997. He has also advised on many 'firsts' in the region including the first synthetic CDOs in China, the first public offer of structured notes in Hong Kong and the first primary cross-border CBO from Korea. He has extensive experience advising on significant events and market disruptions in Asia Pacific, from the GITIC collapse, the imposition of capital controls in Malaysia and the Peregrine insolvency during the Asian financial crisis to the Minibonds meltdown and Lehman insolvency in the global financial crisis. Chong is qualified in England and Wales, Hong Kong, New Zealand and Malaysia, and he is fluent in Mandarin and Bahasa.

I-Ping Soong is a senior solicitor in the Derivatives and Structured Products Group at Linklaters in Hong Kong. I-Ping specialises in over-the-counter (OTC) derivatives, as well as in a wide range of regulatory and advisory matters relating to derivatives and structured products. She has over 12 years extensive experience in a full range of derivatives and structured products in the region and her more recent engagements include advice on Minibonds-related matters, issues thrown out by the insolvency of Lehman Brothers, close-out netting and collateral issues, as well as on clearing derivatives through central clearing systems. She is qualified in England and Wales and Hong Kong and is also Adjunct Associate Professor at the Faculty of Law, the University of Hong Kong.

Table of Cases

A

<i>Adams v Cape Industries plc</i> [1990] Ch 433.....	43
<i>Agnew and Bearsley v The Commr of Inland Revenue (Re Brumark Investments Ltd)</i> [2001] BCC 259	175
<i>Alan CW Tang v John J Toohey</i> [2005] HKCU 1335	123, 133
<i>Alexandra Knitters Ltd v A B Hellenic (A firm)</i> [1946–1972] HKC 571.....	85
<i>Anderson v Morice</i> (1875) 10 CP 609.....	78
<i>Arab Bank plc v Mercantile Holdings Ltd</i> [1994] Ch 71.....	332
<i>Artemis Transportation Corp v Barber Ship Management Ltd</i> [1983] HKLR 364; [1983] 1 HKC 46.....	43

B

<i>Badische Anilin und Soda Fabrik v Hickson</i> [1906] AC 410, 75 LJ Ch 621.....	453
<i>Bailey v Barnes</i> [1894] 1 Ch 25	25
<i>Bank of Credit and Commerce Hong Kong Ltd (in liq) v Asian Winner Ltd and Erez Levy</i> [2001] HKCU 8.....	135
<i>Bank of Credit and Commerce International SA (No 8), Re</i> [1998] AC 214.....	126
<i>Barclays Bank v RBS Advanta</i> [1996] RPC 307	244
<i>Bartlett v Barclays Bank Trust Co Ltd</i> [1980] Ch 515	197
<i>Bisset v Wilkinson</i> [1927] AC 177	523
<i>Bookmakers Afternoon Greyhound Services Ltd v Wilfred Gilbert (Staffordshire) Ltd</i> [1974] FSR 423	239
<i>Brady v Brady</i> [1988] BCLC 579	331
<i>Brightlife Ltd, Re</i> [1986] 3 All ER 673	177
<i>British Airways v Ryanair</i> [2001] FSR (32) 541	244
<i>British Eagle International Airlines Ltd v Compagnie Nationale Air France</i> [1975] All ER 390; [1975] WLR 758.....	133, 140, 142, 423
<i>Brumark Investments Ltd, Re</i> [2001] 2 AC 710	176

C

<i>CA Pacific Finance Ltd</i> [1999] 2 HKC 632.....	170
<i>Cable & Wireless plc v British Telecommunications plc</i> [1998] FSR 383.....	244
<i>Callaghan v Dominion Insurance Co Ltd</i> (1997) Times, 14 July.....	77
<i>Canton Trust and Commercial Bank Ltd, Re</i> [1965] HKLR 450.....	151
<i>Carl Zeiss Stiftung v Rayner & Keeler</i> [1967] 1 AC 853; [1996] 2 All ER 536; [1966] 3 WLR 125	224
<i>Carlill v Carbolic Smoke Ball</i> [1892] 2 QB 484.....	82
<i>Chan Kam Nga (an infant) v Director of Immigration</i> [1999] 1 HKLRD 304; [1999] 1 HKC 347.....	3, 223
<i>Charge Card Services Ltd, Re</i> [1987] Ch 150.....	165
<i>Christofi v Barclays Bank PLC</i> [1994] 4 All ER 437; [1999] 2 All ER (Comm) 417 CA (Eng)	415
<i>Citibank (Hong Kong) Ltd v Au Wai Lun</i> [2006] HKCU 42	531
<i>Corporate Affairs Commission (South Australia) v Australian Central Credit Union</i> (1985) 157 CLR 201; (1985) 61 ALR 236	93

Table of Cases

<i>Cosford Union v Poor Law and Local Government Officers' Mutual Guarantee Assn Ltd</i> (1910) 103 LT 463	77
<i>CSX Corp v The Children's Investment Fund Management (UK) LLP</i> 567 F Supp 2d 511 (SDNY).....	341
<i>Cuckmere Brick Co Ltd v Mutual Finance Ltd</i> [1971] Ch 949; 2 All ER 633	184
<i>Curtain Dream plc, Re</i> [1990] BCLC 621	191

D

<i>Dalby v India and London Life Assurance Co</i> [1854] All ER 1040.....	77
<i>Davys v Buswell</i> [1913] 2 KB 47.....	77
<i>Dearle v Hall</i> [1824–34] All ER Rep 28	178
<i>Desktop Marketing Systems Pty Ltd v Telstra Corp Ltd</i> [2002] FCAFC 112	237
<i>Downsview Nominees Ltd v First City Corp Ltd</i> [1993] AC 295.....	184

E

<i>Edgelow v MacElwee</i> [1918] 1 KB 205.....	69
<i>Edmonds v Blaina Furnaces Co</i> (1887) 36 Ch D 215.....	101, 104
<i>Emmanuel v Symon</i> [1908] 1 KB 302	225
<i>English Sewing (HK) Ltd v Eastern Shipping Lines Inc</i> [1984] HKLR 5; [1984] HKCU 4.....	43
<i>Enron Australia v TXU Electricity</i> (2003) 204 ALR 658; (2003) 180 FLR 376.....	143
<i>Erie Beach Co Ltd v Attorney General for Ontario</i> [1930] AC 161	168
<i>European Asian Bank v AG Reicar Investments Ltd</i> [1988] 1 HKLR 45; [1986] HKC 350.....	21, 25, 27
<i>Exchange Banking Company, Re; Flitcroft's Case</i> (1882) 21 Ch D 519.....	330

F

<i>Far East Consortium Ltd v AG</i> [1983] HKCFI 150.....	212
<i>Farnol Eades Irvine & Co, Re</i> [1915] 1 Ch 22.....	183
<i>Farrars v Farrars Ltd</i> (1888) 40 Ch D 395.....	184
<i>Feasey v Sun Life Assurance Company of Canada; Steamship Mutual Underwriting Assn (Bermuda) Ltd v Feasey</i> [2003] 2 All ER (D) 344.....	78
<i>Field v Barber Asia Ltd</i> [2003] HKCU 712; [2004] HKCU 997	528
<i>First Bangkok City Finance, Re</i> [1993] 2 HKLR 408.....	134
<i>Flood v Irish Provident Assurance Co Ltd and Hibernian Bank Ltd</i> [1912] 2 Ch 597.....	78
<i>Foshan Foreign Economic and Trade Import and Export Corporation of Guangdong v Sabina Enterprises Ltd</i> HCA 20342/1998.....	266
<i>Fuji Finance Inc v Aetna Life Insurance Co Ltd</i> [1997] Ch 173.....	77, 78

G

<i>Garnac Co Inc v HMF Faure & Fairclough Ltd</i> [1966] 1 QB 650	79
<i>George Inglefield Ltd, Re</i> [1933] Ch 1	191, 565
<i>George Mitchell (Chesterhall) Ltd v Finney Lock Seeds</i> [1983] QB 284	457
<i>Gillette Co v LA-Laboratories Ltd Oy</i> [2005] FSR 808.....	244
<i>Gilmour v Supple</i> (1858) 11 Moo PCC 551.....	451
<i>Goldman Sachs Investments (Mauritius) Ltd v Securities and Exchange Board of India</i> (Appeal No 153 of 2006)	385
<i>Gould v Curtis</i> [1913] 3 KB 84	74

H

<i>Handevel Pty Ltd v Comptroller of Stamps (Victoria)</i> (1985) CLR 177; (1985) 62 ALR 204	102
<i>Harvard Securities Ltd, Re, Holland and Newbury</i> [1997] 2 BCLC 369	167
<i>Hazell v Hammersmith and Fulham London Borough Council</i> [1992] 2 AC 1	31
<i>Hennell v Commrs of Inland Revenue</i> [1933] 1 KB 415	79
<i>Hopeful Meat Ltd v Tai Po Frozen Meat Co Ltd</i> [2006] HKCU 1257	451

I

<i>IceTV Pty Ltd v Nine Network Australia Pty Ltd</i> [2009] HCA 14	237
<i>IFE Fund SA v Goldman Sachs International</i> [2007] EWCA Civ 811	524
<i>Illingworth v Houldsworth</i> [1904] AC 355	175
<i>Ince Hall Rolling Mills Co Ltd v The Douglas Forge Company</i> (1882) 8 QBD 179	131
<i>Independent Automatic Sales Ltd v Knowles & Foster</i> [1962] 3 All ER 27	177
<i>Information Security One, Re</i> [2007] 4 HKC 383	130
<i>Ithaca (Custodians) Ltd v Perry Corp</i> [2003] 2 NZLR 216	341

J

<i>Joseph v Law Integrity Insurance Co Ltd</i> [1912] 2 Ch 581	78
<i>JP Morgan Chase Bank v Springwell Navigation Corp</i> [2008] EWHC 1186	520, 524, 528

K

<i>Karlshamns Oljefabriker v Eastport Navigation Corp, the Elafi</i> [1982] 1 All ER 208	452
<i>Keep Point Development Ltd v Chan Chi Yim</i> [2002] 2 HKC 53	25
<i>Knightsbridge Estate Trust, Ltd v Bryne</i> [1940] AC 613	102
<i>Kuwait Asia Bank EC v Yip Lee Nominees (Hong Kong) Ltd</i> [1989] HKCU 306	266

L

<i>Ladbroke (Football) Ltd v William Hill (Football) Ltd</i> [1964] 1 WLR 273	238
<i>Lau Kong Yung v Director of Immigration</i> [1999] 2 HKLRD 516	223
<i>Lego Systems A/S v Lego M Lemelstrich Ltd (LEGO)</i> [1983] FSR 155	246
<i>Lemon v Austin Friars Investment Trust Ltd</i> [1926] Ch 1	102, 104
<i>Levy v Abercorris Slate and Slab Co</i> (1888) 37 Ch D 260	101
<i>Lloyds & Scottish Finance Ltd v Cyril Lord Carpet Sales Ltd</i> [1992] BCLC 609	104
<i>London Country Commercial Reinsurance Office Ltd, Re</i> [1922] 2 Ch 67	77
<i>Lucena v Craufurd</i> [1806] 2 Bos & PNR 269	75, 76

M

<i>Macmillan Inc v Bishopsgate Investment Trust plc (No 3)</i> [1996] 1 All ER 585; [1996] 1 WLR 387	167
<i>Mark Rowlands Ltd v Berni Inns Ltd</i> [1986] QB 211	77
<i>Medical Defence Union Ltd v Dept of Trade</i> [1980] Ch 82	76
<i>Money Markets International Stockbrokers Ltd (in liq) v London Stock Exchange Ltd</i> [2001] All ER 223	126
<i>Morgan Grenfell v Welwyn Hatfield District Council</i> [1995] 1 All ER 1	82

Table of Cases

<i>Morris v Rayners Enterprises Inc (In Re Credit and Commerce International SA (No 8))</i> [1998] AC 214	165
<i>MS Fashions Ltd v Bank of Credit and Commerce International SA</i> [1993] Ch 425.....	133

N

<i>Natamon Protpakorn v Citibank NA</i> [2005] HKCU 1648	525, 529
<i>Newspaper Licensing Agency Ltd v Marks and Spencer</i> [2001] UKHL 38	238
<i>Ng Ka Ling v Director of Immigration</i> [1999] 1 HKLRD 315; [1999] 1 HKC 291	3, 223
<i>Norman v FCT</i> (1963) 109 CLR 9; [1964] ALR 131	102, 103
<i>NV Slavenberg's Bank v Intercontinental Natural Resources Ltd</i> [1980] 1 All ER 955	101, 103, 174

O

<i>Ooregum Gold Mining Company of India Ltd v Roper</i> [1892] AC 125.....	330
--	-----

P

<i>Paul & Frank Ltd v Discount Bank (Overseas) Ltd and Board of Trade</i> [1967] Ch 348; [1966] 2 All ER 922	177
<i>Peekay Intermark Ltd v Australia and New Zealand Banking Group Ltd</i> [2006] EWCA Civ 386.....	524, 526
<i>Peregrine Fixed Income Ltd v Robinson Department Store Public Company Ltd</i> [2000] All ER (D) 1177	9, 148
<i>Permanent Houses (Holdings) Ltd, Re</i> [1989] BCLC 151.....	177
<i>Perpetual Trustee Co Ltd v BNY Corporate Trustee Services Ltd</i> [2009] EWHC 1912 (Ch); [2009] WLR (D) 262	141, 535
<i>Perry Corp v Ithaca (Custodians) Ltd</i> [2004] 1 NZLR 731.....	341
<i>Philips Electronics NV v Remington Consumer Products Ltd</i> [1999] RPC 809	242
<i>Prudential Insurance v IRC</i> [1904] 2 KB 658	74, 75

R

<i>R v Findlater</i> [1936] 1 KB 594.....	102
<i>Rajshree Sugars and Chemicals Ltd v AXIS Bank Ltd</i> (MANU/TN/0893/2008, CS No 240 of 2008, 14 October 2008).....	264
<i>Rakusens Ltd v Baser Ambalaj Plastik Sanayl Ticaret AS</i> [2001] 1 BCLC 104	43
<i>Ravenscroft v Herbert and New English Library</i> [1980] RPC193.....	240
<i>Real Estate Development Co, Re</i> [1991] BCLC 210	130
<i>Reid v Coggans</i> [1944] AC 91.....	79
<i>Ricardo Group Plc, Re</i> [1989] BCLC 566.....	366
<i>Rolled Steel Products (Holdings) Ltd v British Steel Corp</i> [1986] Ch 246.....	21
<i>Royal British Bank v Turquand</i> [1856] 6 E & B 327	21, 24
<i>Russell v Smyth</i> (1842) 9 M & W 810	225
<i>RW Green Ltd v Cade Brothers</i> [1978] 1 Lloyd's Rep 602	457

S

<i>Securities and Futures Commission v C</i> [2009] HKCU 748.....	298
<i>Shipley v Marshall</i> [1863] 14 CBNS 566, 32 LJCP 258.....	177
<i>Shum Kit Ching v Caesar Beauty Centre Ltd</i> [2003] 3 HKLRD 422; [2003] 3 HKC 235.....	531

Table of Cases

<i>Skydon Development Ltd v Micro Organization Ltd</i> [1999] HKCFI 1456.....	237
<i>Smith v Land and House Property Corporation</i> (1884) 28 Ch D 7.....	523
<i>Spectrum Plus Ltd (in liq), Re</i> [2005] 2 AC 680.....	175
<i>Spectrum Plus Ltd, Re</i> [2005] 4 All ER 209.....	176
<i>Stag Line Ltd v Type Shiprepair Group Ltd, the Zinnia</i> [1984] 2 Lloyd's Rep 211.....	457
<i>Stevens, Re</i> [2008] All ER (D) 279.....	177
<i>Sugar plc v James Robertson & Sons Ltd</i> [1996] RPC 281.....	242
<i>Sun Sek Haw v An So Kum</i> [1999] 3 HKC 102.....	25

T

<i>Tae Kim Chang v Official Receiver</i> [1993] 1 HKLR 78; [1992] 1 HKC 403.....	266
<i>Tam Wing Chuen v Bank of Credit and Commerce Hong Kong Ltd (in liq)</i> [1994] 2 HKC 106.....	193
<i>Topham v Greeside Glazed Fire-Bricks Co Ltd</i> (1888) 37 ChD 281.....	101
<i>Tse Kwong Lam v Wong Chit Sen</i> [1983] 3 All ER 54; [1983] WLR 1349.....	184

U

<i>UBS Securities Asia Ltd v Securities and Exchange Board of India</i> (Appeal No 97 of 2005).....	385
--	-----

V

<i>VGM Holdings Ltd, Re</i> [1942] Ch 235.....	123
<i>Vita Foods Products Inc v Uranus Shipping Co Ltd (in liq)</i> [1939] AC 277.....	224
<i>Vodafone International Holdings BV v Union of India</i> (2008) 175 Taxmann 399, 3 December 2008.....	81

W

<i>Wait, Re</i> [1927] 1 Ch 606.....	451
<i>Warnink BV v J Townend & Sons (Hull) Ltd</i> [1979] AC 173.....	246
<i>Waterman's Will Trusts, Re</i> [1952] 2 All ER 1054.....	197
<i>Watson v Parapara Coal Co Ltd</i> [1915] 17 GLR 791.....	177
<i>Webb v Stenton</i> (1883) 11 QBD 518.....	102, 103
<i>Wells Fargo Asia Ltd v Citibank NA</i> 936 F2d 723.....	267
<i>Welsh Development Agency v Export Finance Co Ltd</i> [1992] BCLC 148; [1992] BCC 270.....	104, 191, 565
<i>White and Shannon Ltd, Re</i> [1965] NL 15.....	102
<i>William Young Hong Yui v Bank of Credit and Commerce Hong Kong Ltd (in liq)</i> [1993] HKCU 346.....	135, 193
<i>Wilson, Smithett & Cope Ltd v Teruzzi</i> [1976] QB 683.....	266
<i>Winans v Attorney General (No 2)</i> [1910] AC 27; [1904-07] All ER Rep 410.....	168
<i>Wombles Ltd v Wombles Skips</i> [1977] RPC 99.....	246
<i>Woo Hing Keng Lawrence v CEF Brokerage Ltd</i> (CACV 148/2007).....	49

Y

<i>Yeoman Credit Ltd v Latter</i> [1961] 2 All ER 294.....	77
<i>Yorkshire Railway Wagon Co v Maclure</i> (1882) 21 Ch D 309.....	104
<i>Yorkshire Woolcombers Assn Ltd, In re</i> [1903] 2 Ch 284.....	175

Table of Statutes

A	
Airport Authority Ordinance (Cap 483)	
s 30	31
B	
Banking Ordinance	
(Cap 155)	36–37, 65, 87, 122, 255, 256, 449
s 2	65
s 2(1)	67
s 2(14)(b)	73
s 2(14)(c)	73
s 3(1)	67
s 3(2)	67
s 4(2)(fb)	113
s 4(2)(fc)	114
s 4(2)(g)	114
s 11	66
s 12	66, 69
s 12(1)	69, 70, 112
s 12(6)	66, 112
s 12(8)	69
s 14	66
s 34	193
s 35	141, 193
s 52(1)(C)	151
s 63	72
s 92	112
s 92(2)(c)	114
s 92(3)	112
s 92(5)(b)	114
s 97	66
s 99	122
s 118A	72
s 118C(7)	72
s 122(2)	130, 151
s 122(3)	151
s 126	112
s 137A	83
Sch 5	114
Sch 12	72
Bankruptcy Ordinance	135
ss 20–20A	155
s 34(3)	135
s 34(3B)	134
s 34(4)	135
s 35	133, 137, 138, 155
s 42	155
s 48	196, 197
s 49	139, 140, 155, 187
s 49(1)(b)	135
s 50	137, 140, 185, 187, 421
s 51(3)	138, 185, 422
s 51B	138, 185, 421
s 55	146
s 59	155
s 71(1)	134
s 71A	155
Basic Law	
art 18	223
art 25	5, 6
art 27	5
art 28	5
art 31	5
art 32	5
art 33	5
art 35	6
art 43	3
art 45	3
art 48	3
art 54	3
art 55	3
art 66	4
art 68	4
art 73	4
art 84	5
art 85	4
art 86	4
art 88	4
Annex II	4
Betting Duty Ordinance	
(Cap 108)	81
Bills of Exchange Ordinance (Cap 19)	
s 3	49
s 89	49
Business Registration Ordinance	
(Cap 310)	66, 84
s 2	84
s 12	84
s 15(1)	84
C	
Clearing and Settlement System	
Ordinance (Cap 584)	257, 258
s 2	258
s 16	259
s 17	259
s 18	259
s 19	258

Table of Statutes

s 23.....	259	s 48.....	93, 107
s 24(2).....	258	s 48A.....	94
s 25.....	259	s 48(A)(1).....	93
Code on Takeovers and Mergers and		s 48A(2).....	94
Share Repurchases.....	310, 328	ss 49–49S.....	328
r 3.....	311	s 49B.....	328
r 3.5.....	311	s 49B(6).....	328
r 4.....	311	s 49BA.....	328
r 21.....	311	s 49BA(5).....	329
r 21.1.....	312	s 49BA(6).....	329
r 21.2.....	312	s 70.....	105
r 21.4.....	312	ss 74A–79.....	115
r 22.....	312, 313, 370	s 74A.....	105, 205, 219
r 26.....	313	s 79B.....	330
Code on Unit Trusts and Mutual		s 79M.....	330
Funds.....	34, 484	s 80.....	173, 174
s 7.6.....	34	s 80(9).....	173
s 7.10.....	34	ss 81–91.....	173
Commodities Trading Ordinance		s 81.....	173
(Cap 250).....	41, 56, 297	s 91.....	174
Companies Ordinance		s 95(1).....	165
(Cap 32).....	15, 16, 19, 25, 87, 255, 557	s 166.....	128
s 2.....	115, 333	s 177.....	130, 151
s 2(1).....	101, 104, 105, 106	s 177(1).....	128
s 4.....	28	s 177(1)(d).....	128
s 5A(1).....	23	s 178.....	128, 130
s 5B(1).....	23	s 178(1).....	422
s 5B(2).....	24	s 182.....	127, 129, 137, 184, 194, 258, 424
s 5B(3).....	23, 24, 26	s 184.....	129
s 5C.....	24, 27	s 223.....	129
s 28A.....	333	s 228(1)(b).....	129
s 29.....	49, 490	s 263.....	193
s 38.....	100, 108, 109, 110, 475, 496	s 264.....	133, 193
s 38(1).....	100	s 264A.....	135
s 38(1A).....	111	s 264B.....	139, 186, 259
s 38(1B).....	100	s 265.....	153, 176
s 38(3).....	111	s 266.....	137, 138, 139, 140, 185, 186, 187, 194, 259, 421, 422
s 38(3)(b).....	107	s 266A.....	421
s 38(4).....	497	s 266B.....	138, 185
s 38(7).....	476	s 267.....	176, 186, 187
s 38(8).....	476	s 268.....	138, 144
s 38A.....	100, 476	s 326.....	130
s 38B(2)(e).....	479	s 327.....	85, 130
s 38B(2A)(b).....	479	s 333.....	84, 85
s 39B.....	476	s 342.....	475, 496
s 40.....	497, 498, 500, 502, 519	s 342(1).....	111
s 40A.....	498, 502	s 342(4).....	497
s 41.....	100, 107	s 342(7).....	476
s 41A.....	111	s 342(8).....	476
ss 47–47G.....	330	s 342A.....	476
s 47A.....	330	s 342CB.....	476
s 47B.....	331		
s 47C(1).....	331		

Table of Statutes

<p>s 342E497, 498, 500, 502, 519</p> <p>s 342F 498</p> <p>s 343(2)..... 108</p> <p>Pt II 96, 99, 110</p> <p>Pt X 85</p> <p>Pt XI.....84, 85, 96, 108, 110, 130, 173, 174</p> <p>Pt XII 476</p> <p>Sch 3116, 473, 540</p> <p>Sch 3 para 3 475</p> <p>Sch 17107, 115, 109</p> <p>Sch 18 111</p> <p>Sch 19479</p> <p>Sch 21 474, 476</p> <p>Companies (Amendment) Ordinance 1997..... 22</p> <p>Companies (Amendment) Ordinance 2004..... 99</p> <p>Control of Exemption Clauses Ordinance (Cap 71)..... 455, 526</p> <p>s 2(2)..... 455</p> <p>s 3 527</p> <p>s 3(6)..... 456</p> <p>s 4 455, 527</p> <p>ss 7–12 457</p> <p>s 7 456</p> <p>s 8(2)..... 456</p> <p>s 10 456</p> <p>s 11(3)..... 455</p> <p>s 12(2)..... 456</p> <p>s 12(4)..... 456</p> <p>s 16 457</p> <p>s 17 457</p> <p>Sch 1 para 3 457</p> <p>Sch 2 527</p> <p>Conveyancing and Property Ordinance (Cap 219)</p> <p>s 60139, 186, 194, 259, 423</p> <p>Copyright Ordinance (Cap 528) 236</p> <p>s 2(1)..... 236</p> <p>s 4 236</p> <p>s 22 237</p> <p>s 23(1)..... 237</p> <p>s 23(5)..... 237</p> <p>s 11(1)..... 240</p> <p>s 17(2)..... 237</p> <p>s 107(1)..... 240</p> <p>s 109(1)..... 240</p> <p>s 118..... 240</p> <p>Court of Final Appeal Ordinance (Cap 484)..... 4</p> <p>Criminal Procedure Ordinance (Cap 221)</p> <p>s 101E 112</p>	<p style="text-align: center;">D</p> <p>Dangerous Goods Ordinance (Cap 295)..... 458</p> <p>s 3 458</p> <p>s 6 459</p> <p style="text-align: center;">E</p> <p>Exchange Fund Ordinance (Cap 66)</p> <p>s 3(1)..... 29</p> <p>s 3(1A)..... 29</p> <p>s 3(2)..... 29</p> <p>s 3(2)(a) 29</p> <p>s 3(2)(b) 29</p> <p>s 5B..... 30</p> <p>Exchanges and Clearing Houses (Merger) Ordinance (Cap 355)..... 41</p> <p style="text-align: center;">F</p> <p>Foreign Judgments (Reciprocal Enforcement) Ordinance (Cap 319)..... 226, 227</p> <p>s 4 227</p> <p>s 6(1)(a) 227</p> <p>s 6(2)..... 228</p> <p>s 8 227</p> <p>Foreign Judgments (Restriction on Recognition and Enforcement) Ordinance (Cap 46)..... 226</p> <p>s 3 229</p> <p>s 4 229</p> <p style="text-align: center;">G</p> <p>Gambling Ordinance (Cap 148).....37, 81, 415</p> <p>s 2 81</p> <p>s 29 83</p> <p style="text-align: center;">H</p> <p>High Court Ordinance (Cap 4) 135</p> <p>Hong Kong Deposit Protection Scheme Ordinance (Cap 581)</p> <p>Sch 1 164</p> <p>Hongkong and Shanghai Bank Ordinance 1866 28</p> <p>Hongkong and Shanghai Banking Corporation Limited Ordinance (Cap 70)..... 28, 151</p> <p>Housing Ordinance (Cap 283)..... 154</p> <p style="text-align: center;">I</p> <p>Inland Revenue Ordinance (Cap 112)</p>
--	--

Table of Statutes

s 2..... 202, 204

Insurance Companies Ordinance
 (Cap 41) 37, 73, 152, 195, 413

s 4..... 38

s 6..... 73, 114

s 8(3)(g)..... 28

s 16..... 152

s 22..... 153, 154, 196

s 22(1)..... 153

s 22(2)..... 153

s 22(3)..... 153

s 23..... 196

s 23(5)..... 153

s 25A..... 153, 195

s 28..... 29

s 29..... 195

s 30..... 196

s 46..... 153

s 46(5)..... 154

s 48..... 154

s 56..... 114

s 71..... 196

Sch 1 49, 152

Sch 1, Pt 2..... 75

Interpretation and General Clauses
 Ordinance (Cap 1)..... 91

s 3..... 500

s 2A(2)(b)..... 228

J

Judgments (Facilities for Enforcement)
 Ordinance (Cap 9)..... 226, 228

K

Kowloon-Canton Railway Corporation
 Ordinance (Cap 372)

s 10..... 31

L

Law Amendment and Reform
 (Consolidation) Ordinance (Cap 23)

s 15A..... 165

Legislative Council (Powers and Privileges)
 Ordinance (Cap 382)..... 12, 537

Legitimacy Ordinance (Cap 184)..... 5

Leveraged Foreign Exchange Trading
 Ordinance (Cap 451)..... 41, 58

Loans Ordinance (Cap 61)..... 202, 203

M

Mainland Judgments (Reciprocal
 Enforcement) Ordinance
 (Cap 597)..... 229

s 2(a)..... 230

s 7..... 230

s 18..... 231

s 22..... 230

s 22(3)..... 230

Sch 1 230

Mandatory Provident Fund Schemes
 Ordinance (Cap 485)..... 33

s 2(1)..... 49

Mass Transit Railway Ordinance
 (Cap 556)..... 30

Misrepresentation Ordinance (Cap 284)

s 3..... 503

Money Lenders Ordinance
 (Cap 163)..... 37, 71

s 7..... 71

s 18..... 71

s 24..... 71

N

New Territories Ordinance (Cap 97)

s 13..... 5

O

Occupational Retirement Schemes
 Ordinance (Cap 426)..... 33

s 2(1)..... 49

Ocean Park Corporation Ordinance
 (Cap 388)

s 27..... 31

P

Personal Data (Privacy) Ordinance
 (Cap 486)..... 248, 415

Prevention of Bribery Ordinance (Cap 201)

Sch 1 30

Protection of Investors Ordinance
 (Cap 335)..... 41

S

Sale of Goods Ordinance (Cap 26)..... 449

s 2(1)..... 450, 451

s 3(1)..... 450

s 3(2)..... 450

s 3(3)..... 450

s 3(4)..... 450

s 14..... 454, 455

s 15..... 454, 455

s 16..... 455

s 16(2)..... 455

s 16(3)..... 455

s 16(8)..... 455