

Professional Investor Definition

There are 3 principal categories of professional investors – Institutional Professional Investors, Corporate Professional Investors and Individual Professional Investors.

The categories of Institutional Professional Investors are set out in Part 1 of Schedule 1 to the Securities and Futures Ordinance, while the definitions of Corporate Professional Investors and Individual Professional Investors are set out in the Securities and Futures (Professional Investor) Rules.

1. Institutional Professional Investors

Institutional Professional Investors are persons falling under paragraphs (a) to (i) of the definition of “professional investor” in section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (the SFO). These are:

- a. any recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company, or any person authorized to provide automated trading services under section 95(2) of the SFO;
- b. any SFC-licensed corporation or SFC-registered institution, or any other person carrying on the business of the provision of investment services and regulated under the law of any place outside Hong Kong;
- c. any authorized financial institution, or any bank which is not an authorized financial institution but is regulated under the law of any place outside Hong Kong;
- d. any insurer authorized under the Insurance Companies Ordinance (Cap. 41), or any other person carrying on insurance business and regulated under the law of any place outside Hong Kong;
- e. any scheme which-
 - i. is a collective investment scheme authorized under section 104 of the SFO; or
 - ii. is similarly constituted under the law of any place outside Hong Kong and, if it is regulated under the law of such place, is permitted to be operated under the law of such place,or any person by whom any such scheme is operated;
- f. any registered scheme as defined in section 2(1) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485), or its constituent fund as defined in section 2 of the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A), or any person who, in relation to any such registered scheme, is an approved trustee or service provider as defined in section 2(1) of that Ordinance or who is an investment manager of any such registered scheme or constituent fund;
- g. any scheme which-

- i. is a registered scheme as defined in section 2(1) of the Occupational Retirement Schemes Ordinance (Cap 426); or
- ii. is an offshore scheme as defined in section 2(1) of that Ordinance and, if it is regulated under the law of the place in which it is domiciled, is permitted to be operated under the law of such place,

or any person who, in relation to any such scheme, is an administrator as defined in section 2(1) of that Ordinance;

- h. any government (other than a municipal government authority), any institution which performs the functions of a central bank, or any multilateral agency; or

Except for the purposes of the exemptions from the licensing requirements:

- i. any corporation which is-
 - i. a wholly owned subsidiary of-
 - A. an SFC-licensed corporation or SFC-registered institution, or any other person carrying on the business of the provision of investment services and regulated under the law of any place outside Hong Kong; or
 - B. an authorized financial institution, or any bank which is not an authorized financial institution but is regulated under the law of any place outside Hong Kong;
 - ii. a holding company which holds all the issued share capital of-
 - A. an SFC-licensed corporation or SFC-registered institution, or any other person carrying on the business of the provision of investment services and regulated under the law of any place outside Hong Kong; or
 - B. an authorized financial institution, or any bank which is not an authorized financial institution but is regulated under the law of any place outside Hong Kong; or
 - iii. any other wholly owned subsidiary of a holding company referred to in subparagraph (ii).

2. Corporate Professional Investors

Corporate Professional Investors are trust corporations, corporations or partnerships falling under sections 4, 6 or 7 of the Securities and Futures (Professional Investor) Rules (the **PI Rules**). These are:

- a. **Trust Corporations** - a trust corporation which has been entrusted under the trust or trusts of which it acts as a trustee with total assets of not less than **HK\$40 million** or its foreign currency equivalent.

A “trust corporation” is:

- i. any trust company registered under Part 8 of the Trustee Ordinance (Cap. 29); or
- ii. any other corporation which carries on a business which is of a nature similar to that of a trust company referred to in paragraph (i) and is regulated under the law of any place outside Hong Kong.

- b. **Corporations** – the following corporations:

- i. a corporation which has:
 - A. a portfolio¹ of at least **HK\$8 million** or its equivalent in any foreign currency; or
 - B. total assets of at least **HK\$40 million** or its foreign currency equivalent;
- ii. a corporation whose principal business is to hold investments and which is wholly owned by one or more of the following:
 - A. a trust corporation referred to in section 4 of the PI Rules (see paragraph 2(a) above);
 - B. an individual referred to in section 5(1) of the PI Rules (see paragraph 3 below);
 - C. a corporation referred to in this paragraph (ii) or paragraph (i);
 - D. a partnership referred to in section 7 of the PI Rules (see paragraph (c) below);
 - E. a professional investor within the meaning of paragraph (a), (d), (e), (f), (g) or (h) of the definition of “professional investor” in section 1 of Part 1 of the SFO (as set out in Part 1 above);

¹ “portfolio” means a portfolio comprising any of the following: (a) securities; (b) a certificate of deposit issued by: (i) an authorized financial institution; or (ii) a bank which is not an authorized financial institution but is regulated under the law of any place outside Hong Kong; (c) in relation to an individual, corporation or partnership, money held by a custodian for the individual, corporation or partnership.

iii. a corporation which wholly owns a corporation referred to in paragraph (i) above.

c. a partnership which has:

i. a portfolio² of at least **HK\$8 million** or its equivalent in any foreign currency; or

ii. total assets of not less than **HK\$40 million** or its equivalent in any foreign currency.

Ascertaining total assets or portfolio of Corporate Professional Investors

The total assets entrusted to a trust corporation, or the portfolio or total assets of a corporation or partnership should be ascertained by referring to one or more of the following:

a. the most recent audited financial statement prepared within 16 months before the relevant date of the trust corporation (or a trust of which it acts as trustee), corporation or partnership; or

b. any one or more of the following documents issued or submitted within 12 months before the relevant date:

i. a statement of account or a certificate issued by a custodian

▪ a “custodian” is:

A. a corporation whose principal business is to act as a custodian of securities or other property for another person, whether on trust or by contract; or

B. any of the following persons whose business includes acting as a custodian custodian of securities or other property for another person, whether on trust or by contract authorized financial institution;

C. a bank which is not an authorized financial institution but is regulated under the law of any place outside Hong Kong;

D. a licensed corporation; or

E. a person carrying on the business of the provision of investment services and regulated under the law of any place outside Hong Kong;

ii. a certificate issued by an auditor or a certified public accountant; or

iii. a public filing submitted by or on behalf the trust corporation (whether on its own behalf or in respect of a trust of which it acts as a trustee), corporation or partnership.

² See note 2 above.

- A “public filing” is a document that, pursuant to legal or regulatory requirements in Hong Kong or in a place outside Hong Kong, has been submitted to a person or body that is under a duty to publish the document to, or otherwise make the document available for inspection by, members of the public in Hong Kong or in a place outside Hong Kong.

3. Individual Professional Investors

Individual Professional Investors are individuals who have a portfolio² of at least **HK\$8 million** (or its foreign currency equivalent) when any one or more of the following are taken into account:

- a. a portfolio in his or her own account;
- b. a portfolio in a joint account with his or her associate;
 - an “associate” is a spouse or child.
- c. his or her share of a portfolio on a joint account with one or more persons who are not associates.
 - an individual’s share is the share specified in a written agreement between the accountholders, or if none, an equal share of the portfolio;
- d. a portfolio of a corporation which, at the relevant date, has as its principal business the holding of investments and is wholly owned by the individual.

Ascertaining portfolio of Individual Professional Investors

The portfolio (including a share of a portfolio) of an individual is ascertained by reference to one or more of the following documents issued or submitted within 12 months before the relevant date:

- i. a statement of account or a certificate issued by a custodian;
- ii. a certificate issued by an auditor or a certified public accountant; or
- iii. a public filing submitted by or on behalf the individual.
 - A “public filing” is a document that has been submitted by or on behalf of the individual pursuant to legal or regulatory requirements in Hong Kong or elsewhere to a person or body that is under a duty to publish the document to, or otherwise make the document available for inspection by, members of the public in Hong Kong or elsewhere.