

InvestHK roundtable meeting in Beijing on 22 April 2009

During the Law Society delegation's Beijing visit between 19 to 22 April 2009, Mr Junius Ho as Vice-President of the Law Society attended a roundtable meeting with more than 20 Beijing lawyers on 22 April 2009 and shared with them the experience in running a legal practice in Hong Kong.

The seminar was a conjoint event organized by the Invest Hong Kong, The Law Society of Hong Kong and the HKSAR Beijing Office. It turned out to be very successful. The topic of the seminar presented by Mr Junius Ho was '外地律師如何在香港設立法律事務所'. Contents of his talk focused on the ways in which how a foreign lawyer could register his professional status and set up a legal practice in Hong Kong. Details of the application procedures were explained to the audience and had stimulated the minds of the audience to raise a host of keen questions about the practice and which were all satisfactorily answered. Copies of the powerpoint and reference materials for the course are found in Appendix 1.

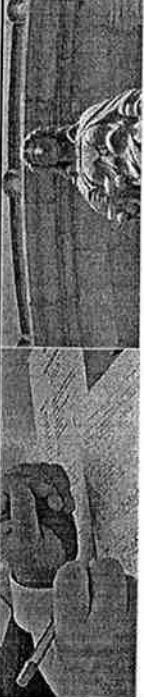
Photos of the seminar are also found in Appendix 2 for reference.

Serena Chan

25.4.2009

JH/csl

Admin/Articles/118/csl




香港特区政府投资推广署讲座
(2009年4月22日)

外地律师如何在香港设立法律事务所


by
何君尧律师
(香港律师会副会长)
何君柱，方燕翔律师楼合伙人

Ho Kwan Yiu
K. C. Ho & Fong



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香港律师会


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大纲:

1. 香港律师会简介
2. 一般律师执业情况
3. 关于外地律师统计数字
4. 外地律师申请在港设立办事处与执业手续
5. 结论

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1. 香港律师会简介

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1.1 背景

- 香港律师会是香港事务律师的专业团体
- 于1907年注册为有限公司

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1.2 宗旨

- 维护香港事务律师的特点，地位及利益；
- 维持专业水准及操守；
- 执行有关纪律之法例及规定；
- 协助会员发展其业务；

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1.2 宗旨 (续)

- 确保准确地反映律师的意见；
- 为会员提供各项服务；
- 考虑所有涉及业界利益的问题，并代表业界推动法律及执业的改革

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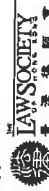
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1.3 功能

- 为本港律师发出周年执业证书，和处理外地律师行之登记事宜；
- 进行调查及向律师纪律审裁组陈述有关律师之专业操守；
- 安排及维持强制性专业赔偿计划

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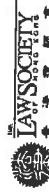
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1.3 功能 (续)

- 如发现律师不诚实、故意延误个案进度、破产、死亡或遭遇其它意外，本会有权干预该律师行之日常运作；
- 为律师及实习律师之专业操守和教育订下规则


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2. 一般律师执业情况



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2.1 香港律師事務所行業概況 (3.2009)


- 現時全港有718間律師事務所，當中：
 - 有2至5位合伙人的有321所；
 - 約45%是獨資所，55%是合夥所。
- 在6,155位註冊執業律師或會員中，
 - 合伙人：1,719位；
 - 獨資創辦人：325位；
 - 實習律師：754位。



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2.1 香港律師事務所行業概況 (3.2009) (續)


- 在香港獨資經營的律師事務所所有325所；
 - 合夥經營的有383所。
 - 有6至10位合伙人的有39所；
 - 有超過10位以上合伙人的有33所。




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3. 关于外地律師统计数字



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• 截至2009年3月31日，本港有72间注册外地律师行，分别来自不同的司法管辖区

美国	29	中国内地	10
英格兰及威尔斯	7	瑞典	3
德国	3	法国	3
加拿大	3	英属维京群岛	3
菲律宾	2	开曼群岛	2
百慕达	2	荷兰	1
瑞士	1	马来西亚	1
日本	1	意大利	1
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4. 外地律师申请在港设立办事处与执业手续

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4.1 外地律师行申请成立及登记规条

- 所有律师行必须遵守法律执业条例及附带的法规
- 自1994年9月9日起，根据《法律执业者条例》及《外地律师注册规则》的规定，在港的外地律师及外地律师行必须向律师会注册，才可提供其所属国家之法律意见，亦能在专业范畴所及之情况下，提供与第三个国家司法制度有关的法律意见。

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- 所有有意在香港执业的合伙人或其独营执业者均为外地律师的律师行；
- 有意在注册后的2个月内，在香港设立一个营业地点的律师行以从事外地法律执业或外地法律咨询业务。

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- 凡一间律师行有意在港注册为外地律师行，但没有在其注册后2个月内在香港设立一个营业地点，律师会则可取消该律师行的注册。
- 注册的外地律师行只能够提供与其所属的司法管辖区的相关法律服务，并不能提供香港法律服务。

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- 外地律师行不得接受一名持有香港执业资格的律师加入为合伙人，亦不得雇用持有香港执业证书的律师或大律师。
- 有意在港注册的外地律师行在符合某些条件下可用其海外律师行的名称在港注册。

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4.2 相关条例及规则：

- 法律执业者条例 1994, 第 39B 条 及第 50B 条
- 外地律师注册规则 第 2, 6, 7, 9, 10 及11条
- 外地律师注册(费用)规则 第2条

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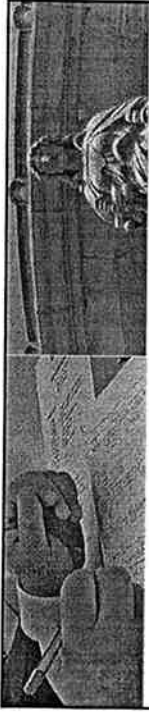


4.3 外地律师在香港设立法律事务所 申请流程图

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谢谢!

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外地律师在香港设立法律事务所 申请流程图

所需时间	步骤及项目	文件	条例								
一般在提交申请表前 4 个月	<p style="text-align: center;"><u>一般数据</u></p> <p><u>准备工作</u></p> <ul style="list-style-type: none"> • 律师行名称 • 办公室租约 • 职员-雇用合约 • 办公室设备-租用合约 • 良好声誉证明书 • 预算 										
第一日	<p><u>注册为外地律师行和律师</u></p> <p><u>所需文件</u></p> <ol style="list-style-type: none"> 1. 外地律师行申请表格 2. 外地律师申请表格 3. 律师«专业弥偿»保险文件 (外地法律执业) 4. 外地律师的良好声誉证明书 5. 外地律师行的良好声誉证明书 6. 附信+总公司发出的财政支持证明 7. 律师行发出的证明信, 证明申请者符合条例要求 8. 注册外地律师行费用为港币\$35,000 元 注册外地律师费用为港币\$10,000 元 	附件(一) 附件(二) 附件(三) <u>附件(四)</u> 附件(五) 附件(六) 附件(六) 附件(十) -PRC	附件(七)-FLRR R6 & R7 附件(八) -FLPR 附件(九)-LS Cir 06-350 (COM) PIS								
第三日	<p><u>符合«外地律师执业规则»的标准</u></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%; text-align: center;">(律师行)</th> <th style="width: 50%; text-align: center;">(律师)</th> </tr> </thead> <tbody> <tr> <td>1. 海外律师行提供与<u>其所属的司法管辖区的相关法律服务</u></td> <td>1. 海外律师提供与其<u>所属的司法管辖区的相关法律服务</u></td> </tr> <tr> <td>2. 在过去 5 年内的任何时间曾从事法律执业的每个司法管辖区的外地律师行, 均有<u>良好声誉</u></td> <td>2. 在过去 2 年内的任何时间曾从事法律执业的每个司法管辖区合伙人, 均有<u>良好声誉</u></td> </tr> <tr> <td>3. 律师行其中一名成员有意来香港执业, 必需要满足下列条件: (1) 合伙人 (2) 不少于 24 个月的全职工作 (3) 多于 5 年执业经验</td> <td>3. 律师«专业弥偿»规则.</td> </tr> </tbody> </table>	(律师行)	(律师)	1. 海外律师行提供与 <u>其所属的司法管辖区的相关法律服务</u>	1. 海外律师提供与其 <u>所属的司法管辖区的相关法律服务</u>	2. 在过去 5 年内的任何时间曾从事法律执业的每个司法管辖区的外地律师行, 均有 <u>良好声誉</u>	2. 在过去 2 年内的任何时间曾从事法律执业的每个司法管辖区合伙人, 均有 <u>良好声誉</u>	3. 律师行其中一名成员有意来香港执业, 必需要满足下列条件: (1) 合伙人 (2) 不少于 24 个月的全职工作 (3) 多于 5 年执业经验	3. 律师«专业弥偿»规则.		FLRR- 律师行 R7(1)(a)(iii) FLRR R6-律师
(律师行)	(律师)										
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	<p><u>外地律师行申请表格的内容</u></p> <ol style="list-style-type: none"> 1. 在港合伙人 2. 计划成立日期 3. 办公室选址 4. 计划之联营对象 5. «专业弥偿»保险 6. 会计期 7. 声明 8. 承诺服从香港律师会的管辖权及遵从«法律执业者条例»、有关«条例»、«实务指示»及«香港事务律师专业操守指引» <p><u>外地律师申请表格的内容</u></p> <ol style="list-style-type: none"> 1. 个人资料 2. 专业资格、2年「专业资格考试」及合法执业证明 3. 不少于港币一千万元的«专业弥偿保险»或在香港相关的专业弥偿保险 4. 良好品格 例如: 不可有被判监的犯罪记录、被罚款超过港币\$5000元或被取消董事资格 	<p>Part A7 Part A3(a)+Part B Part A3(b) Part A3(b) Part D14 Part E15</p> <p>Part C12 Part D Part E</p>
第 14 日	申请经过香港律师会属下的审批委员会考虑	
第 16 日	申请者获得回复	
第 24 日	获得注册证书	
第 100 日	开始在香港从事法律业务	

Admin/Presentation/117/csl

16.4.2009

THE LAW SOCIETY OF HONG KONG

FOR OFFICE USE ONLY	
Application No:	_____
Date received:	_____
Fees received:	_____

APPLICATION FOR REGISTRATION AS A FOREIGN LAW FIRM

Applicant should read the "Information for Registration of a Foreign Law Firm" before completing this Form

PART A - INFORMATION ABOUT THE PROPOSED REGISTERED FOREIGN LAW FIRM

1. Proposed Name: _____

(in Chinese): _____

2. Proposed Address: _____

3. (a) Intended Date of Establishment: _____

(b) Action taken or being taken by the proposed firm to comply with the intended date of establishment referred to in (a) above. For actions being taken, please set out a timetable for their completion to cover a period not greater than 3 months from the date of application:

4. The law of the following Jurisdiction(s) will be practised by the firm:

5. All resident partners / The sole practitioner of the proposed firm:

Name (surname first)	Passport (Place of Issue & No.)	Hong Kong I.D. No. (if any)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. The proposed firm intends to employ the following registered foreign lawyers:

Name (surname first)	Passport (Place of Issue & No.)	Hong Kong I.D. No. (if any)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

PART B - INFORMATION ABOUT THE APPLICANT (THE APPLICANT IS THE INTENDED SENIOR RESIDENT PARTNER OR THE SOLE PRACTITIONER OF THE PROPOSED FIRM)

7. Name: _____
(surname) (other name)

8. Name of Employer (if any): _____

9. Address of Employer (if any): _____

10. Correspondence Address: _____

11. Tel No.: _____ Fax No.: _____
(Please indicate if the telephone no. and fax no. are in countries other than in Hong Kong)

PART C - QUALIFICATION FOR REGISTRATION

12. **TO BE COMPLETED IF THE PROPOSED FIRM IS A BRANCH OF AN OVERSEAS FIRM**

a. INFORMATION ABOUT THE OVERSEAS FIRM

i. Name of the overseas firm is: _____

- ii. Principal place of business is: _____
 (Address in full) _____

- iii. No. of Partners: _____
- iv. No. of other qualified staff: _____
- v. Names of the partners in the head office who will be resident partners of the proposed firm

If you answer "No" to any of the questions in this Part, full particulars should be given in a separate sheet.

- | | <u>Yes</u> | <u>No</u> |
|---|--------------------------|--------------------------|
| b. Is the overseas firm lawfully carrying on the practice of law in its foreign jurisdiction? | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Is the overseas firm in good standing in every jurisdiction in which it has at any time within the past 5 years carried on the practice of law? | <input type="checkbox"/> | <input type="checkbox"/> |
| d. Is there at least one of the partners of the firm who intends to practise in Hong Kong who:- | | |
| i. is a partner in the overseas firm? | <input type="checkbox"/> | <input type="checkbox"/> |
| ii. has, at the date of the application for registration, been associated on a full-time basis with the overseas firm for the immediately preceding period of 12 months and had, during the 4 years immediately preceding the commencement of that period, been so associated with the overseas firm for an additional period of not less than 12 months? and | <input type="checkbox"/> | <input type="checkbox"/> |
| iii. has been in the practice of the law for not less than 5 years? | <input type="checkbox"/> | <input type="checkbox"/> |
| e. (i) Will the overseas firm provide financial and logistical support to the proposed firm? | <input type="checkbox"/> | <input type="checkbox"/> |
| (ii) If so, will the overseas firm advise the Law Society if the situation changes? | <input type="checkbox"/> | <input type="checkbox"/> |

Please enclose an original letter issued by the relevant Law Society or Governing Body confirming the facts in 12b, c and d above. Please enclose an original letter issued by the overseas firm confirming the answer to 12(e) above.

13. **TO BE COMPLETED IF THE PROPOSED FIRM IS NOT A BRANCH OF AN OVERSEAS FIRM**

If you answer "No" to any of the questions in this Part, full particulars should be given on a separate sheet.

- | | <u>Yes</u> | <u>No</u> |
|---|--------------------------|--------------------------|
| a. Is each of the partners of the firm who intends to practise in Hong Kong of good standing in the foreign jurisdiction of which he is qualified to practise the law and in every jurisdiction of which he has at any time within the past 5 years practised the law? | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Has each of the partners who intends to practise in Hong Kong been engaged in the practise of the law of a foreign jurisdiction in which he is qualified to practise for not less than 3 years? | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Is one of the partners who intends to practise in Hong Kong of substantial reputation in the foreign jurisdiction the law of which he is qualified to practise, or in a jurisdiction of which he has practised that law during the preceding 5 years? | <input type="checkbox"/> | <input type="checkbox"/> |

Please enclose an original letter issued by the relevant Law Society or Governing Body confirming the facts in 13 a, b and c above.

PART D - PROFESSIONAL LIABILITY INSURANCE

14. The proposed firm will maintain a professional liability insurance policy for all the registered foreign lawyers with:

- a. Name of Insurer: _____
- b. Address of Insurer: _____

- c. Policy No.: _____

PART E - ACCOUNTANT'S REPORT

15. The firm's accounting period for the purpose of the Accountant's Report Rules will be-

From: _____ to _____ for every year.

DECLARATION OF APPLICANT

I, _____, DO SOLEMNLY DECLARE THAT:

1. I am the applicant of this Application.
2. I wish # _____ to be registered with the Law Society of Hong Kong as a foreign law firm to practise * _____ law in Hong Kong.
3. I have personal knowledge of the information I have submitted in this Application, and confirm that the information is true, accurate and complete;

and I make this solemn declaration conscientiously believing it to be true and knowing that it has the same legal force and effect as if made under oath.

Declared before me at _____, this _____ day of _____, 20_____.

Notary Public, Commissioner for Oaths, or other person authorised by the Oaths and Declaration Ordinance to take declarations

Signature of the Applicant

Name of witness: _____

Please insert the name of the proposed firm.

* Please insert the jurisdiction on which this application is based.

APPLICANT'S UNDERTAKING AND AUTHORIZATION

I, _____, the applicant in this Application apply for registration of * _____ as a foreign law firm in Hong Kong. On behalf of the said foreign law firm, I will submit to the jurisdiction of the Law Society of Hong Kong, and will comply with the *Legal Practitioners Ordinance*, the Law Society Rules, the Practice Directions and the Hong Kong Solicitors' Guide to Professional Conduct, I consent to permit the Law Society to make inquiries on the information contained in this form of other lawyers, solicitors, governing bodies, etc.

Date

Signature of the Applicant

* Please insert the name of the proposed firm.

Personal Information Collection Statement

1. Your personal data collected using this form ("the data") will be used by the Law Society for the purposes of exercising its powers under the Legal Practitioners Ordinance and its subsidiary legislation (Chapter 159) and administering or enforcing the relevant provisions of the said Ordinance and its subsidiary legislation, and for any other legitimate purposes as may be required, authorized or permitted by law.
2. The data may be disclosed to relevant government departments and related organizations and to persons in the Law Society with responsibility for carrying out the purposes mentioned in paragraph 1 above.
3. You have a right to request access to and correction of the data. Any such request should be addressed to the Secretary General, the Law Society of Hong Kong, 3/F, Wing On House, 71 Des Voeux Road Central, Hong Kong.

CONFIRMATION

**PROFESSIONAL INDEMNITY INSURANCE
FOR REGISTERED FOREIGN LAWYERS**

We confirm that the professional indemnity insurance for _____
(Name of Firm)
_____ complies with Rule 6(1) of the Foreign Lawyers

Registration Rules, namely,

- i) the registered foreign lawyers of the firm are entitled to be indemnified for not less than HK\$10 million in respect of each and every claim (inclusive of costs) with no aggregate limit; and
- ii) indemnity is provided against loss occasioned by the fraud or dishonesty of the employees of the firm other than that occurring as a result of recklessness or dishonesty or a fraudulent act or fraudulent omission by the principal in the conduct or management of the practice.

Name of Insurance Company

Signature of the Resident Partner

Company Chop & Authorized Signature
of Insurance company

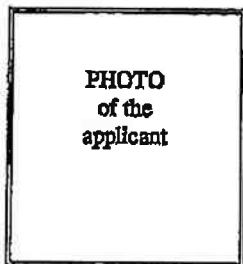
Company Chop of Foreign Law Firm

Name & Title of Authorized Signatory
of Insurance Company

Date

****Encl: a complete set of the policy of insurance****

THE LAW SOCIETY OF HONG KONG



<p>FOR OFFICE USE ONLY</p> <p>Application No.:</p> <p>Date received :</p> <p>Fees received :</p>

APPLICATION FOR REGISTRATION AS A FOREIGN LAWYER

Applicant should read the "Information for Registration as a Foreign Lawyer" before completing this Form.

PART A - NAME AND IDENTIFICATION

1. Title : _____ (e.g. Mr./Mrs./Miss/Ms.)
 2. Name : _____
 Surname Given Names in full (As stated on passport)
 3. Date of Birth: _____ _____ _____
 day month year
 4. Place of Birth : _____ _____
 City/State Country
 5. Passport : _____ _____ _____
 Country/Place of issue Number Date of expiry
 6. Citizenship: _____ _____
 Country
 7. Hong Kong Identity Card No.: _____ (if any)
- Please enclose a certified copy of your passport and Hong Kong Identity Card (if any)
8. State any changes of name, formal or informal, or other surnames or given names you have used, and when :

If the change in your name was made by a Court order, deed poll or marriage, attach a copy of the order. If not, please enclose a statutory declaration stating that the different names used refer to the same person.

PART B - ADDRESSES

9. Present Business Address : _____
 (including Firm's Name, if any) _____
 Fax No : _____ Telephone No : _____
10. Present Residential Address : _____

 Fax No : _____ Telephone No : _____
11. Correspondence Address : _____

PART C - PROFESSIONAL STANDING AND EXPERIENCE

12. List Chronologically each Law Society or other governing body of which you are now, or ever have been a member.

Law Society or Governing Body	Address	Date of Call or Admission	Present Status		
			Active	Retired, honorary or non-practising	if ceased, date of cessation
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	_____

13. State the jurisdiction on which the application is based : _____
14. Are you qualified to practise the law of the jurisdiction on which the application is based? Yes No
- Please enclose a certified copy of your current Practising Certificate from that jurisdiction.
15. Do you have at least 2 years of post-qualification experience in the full-time practise of the law of that jurisdiction? Yes No
16. Are you a member in good standing of that jurisdiction? Yes No

Please enclose a certified copy of your Certificate of Good Standing issued by the relevant Law Society or Governing Body. The Certificate of Good Standing is not valid for the purpose of this application if the date of its issue is more than 4 months from the date at the time received by the Secretariat of this Society. If you were admitted in more than one jurisdiction, you must submit a Certificate of Good Standing from each jurisdiction.

17. State your complete employment history whether as an employee or self-employed for the 10-year period* immediately preceding the date of this application:

Name of Law Firm or other Employer	Address	Position	The law of the jurisdiction in which you practised	Month & Year of Employment	
				From	To
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

* Please provide the reasons for any gap between periods of employment.

18. It is intended that you be employed :-
- (a) by a Hong Kong firm
- (b) by a registered foreign law firm
19. Have you ever been refused admission to, been disciplined by or been disbarred or struck off from membership in a Law Society or other governing body?
Yes No
20. Have you ever resigned from a Law Society or other governing body in exchange for disciplinary proceedings not being taken against you?
Yes No
21. Are you aware of any complaint or charge or disciplinary proceeding pending against you in your professional capacity, which has not yet come to the attention of your Law Society or governing body, which might result in disciplinary action being taken against you? Yes No

PART D - PROFESSIONAL LIABILITY INSURANCE

The Council of the Law Society has resolved that with effect from 1 July 2006 the policy will be required to provide indemnity of not less than HK\$10 million in respect of each and every claim (inclusive of costs) and with no aggregate limit. Indemnity shall also be provided against loss occasioned by the fraud or dishonesty of employees of the firm other than that occurring as a result of recklessness or dishonesty or a fraudulent act or fraudulent omission by the principal in the conduct or management of the practice.

22. Name of Insurer: _____
23. Address of Insurer: _____
24. Policy No.: _____
25. Policy Period: From _____, _____ to _____, 20____.

[Under Rule 6 of the Foreign Lawyers Registration Rules, a foreign lawyer's Certificate of Registration shall be deemed to have been suspended if his or her