



Support you at this difficult time

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(together, HCBS)

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About this Guide

The death of someone close is always a difficult time. When you are already experiencing grief, dealing with practical matters and making important financial decisions can seem overwhelming.

This guide aims to offer help and support you through those steps and decisions.

The first part outlines the initial steps you will need to take, such as registering the death, notifying us and obtaining the Will (if there is one). The second part focuses on what happens to investment accounts the deceased had with HCBS, and what you can expect from us.

We welcome your feedback and thoughts on this guide, feel free to share your input with us. Please send your email to nettrader@hsbc.com.hk.

Registering the death

After someone passes away, their death must be registered with the Births and Deaths General Register Office – contact details of the Deaths Registry can be found in **Appendix 1**.

The Deaths Registry will give you a ‘certified copy of a death entry’, more commonly known as the Death Certificate. Most organizations, including HCBS, will need to see original documents and so you may want to arrange for extra copies of the Death Certificate from the Deaths Registry - these additional copies are available at a charge.

Notifying us

You can notify HCBS of the death after obtaining the Death Certificate of the deceased. All you need to do is to visit our office at L25, HSBC Main Building, 1 Queen’s Road Central with the original Death Certificate of the deceased. As soon as we are informed of a death, we will let you know if you need to do anything else regarding the deceased’s accounts with us. However, you will also need to inform other divisions of HSBC, if applicable, and some examples are provided in **Appendix 2**.

Furthermore, in the case of pensioners – The Treasury of the Government of the Hong Kong Special Administrative Region (HKSAR), should be informed too and its contact details can be found in **Appendix 1**.

If the deceased had any accounts that are opened under his own name (ie sole-name accounts) or jointly with other parties under Tenancy in Common agreement, these will be frozen. This means no money can be taken out of the accounts. However, any deposit interests and dividends would continue to be paid into the deceased’s accounts.

There can also be accounts which the deceased opened jointly with other parties as joint tenants. We would remove the name of the deceased from the account, making it an account to be held under the name of the surviving account holder(s) after verified the death certificate.

After you have told us that a person has passed away, we will not issue any further account statements or advices to the deceased. It is possible that for a short time after you have told us that a person has passed away, they may still be sent mail from us and we apologise for this. This is because mail was prepared and printed in advance.

What is in HCBS?

To avoid any possible inconvenience when handling the deceased's assets, it is important that you obtain full details of the accounts the deceased maintained with HCBS, especially the account number of all accounts held and their respective account balances as at the date of death. If you do not already have an accurate picture of the deceased's estate, or are not even sure if the deceased maintained a relationship with HCBS, you are welcome to come in person to our office at L25, HSBC Main Building, 1 Queen's Road Central to make an enquiry.

When you visit our office, please bring along the following documents:

- Original or certified true copy of Death Certificate of the deceased
- Original identification documents of the deceased
- Original identification documents of the person making the account balance enquiry
- Original proof of relationship between the person making the account balance enquiry and the deceased e.g. marriage certificate for spouse, birth certificate for parents/children
- Original of Will of the deceased, if any

We would then assist you with an enquiry of outstanding balance of the deceased's accounts for you during your visit to our office. The account number and balances for each account would be retrieved from our records, as at the date of death, and sent to you by mail normally within 15 working days. You will need this information when applying for Probate (under '**Handling an estate**'). We understand the circumstances that you are in and would not charge a fee for this purpose.

Handling an estate

Anyone responsible for dealing with the estate is generally known as a 'Personal Representative', who will either be the 'executor' or 'administrator' depending on whether there is a Will.

- If there is a Will, this person will be named as the 'executor'.
- If there is no Will, the law of intestacy will apply and the immediate next of kin will usually be named as the 'administrator'.

If you are the Personal Representative, your duties are to:

- Make an inventory of everything in the deceased's estate and work out the total value.
- Calculate and settle any tax liabilities.
- Apply for the legal right to deal with the estate. Please refer to the next section for details.
- Collect all assets (such as shares and investments) and settle any debit balance.
- Distribute the estate to the beneficiaries.

If you are the Personal Representative, you can decide whether you want to:

- Deal with the estate yourself; or
- Appoint a solicitor to handle some or all of the estate for you.

Is Probate required?

Probate is a general term to describe the process to apply for the legal right to deal with an estate.

Probate is required for the handling of the estate of the deceased. However, Probate is not required where all the deceased's assets are held jointly with another person as joint tenants and the assets pass automatically to the surviving account holder(s). If the deceased held with us a joint account with another person as joint tenants, the surviving account holder(s) will need to show us the original or certified copy of Death Certificate of the deceased in order for us to change the ownership to the account¹. They are explained in more detail in the '**Sorting out any HCBS accounts**' section.

Where the value of the deceased assets held in their sole name does not exceed HKD50,000, a Confirmation Notice, instead of a Probate, may suffice. For further details, see '**Handling small estate**' section below.

Applying for Probate

The process involves applying to the Probate Registry of the High Court of the HKSAR (Probate Registry), as follows:

- If there is a Will, the Registry would validate the Will and issue a legal document called the 'Grant of Probate'.
- If there is no Will, the Registry would check that the applicant(s) is legally allowed to deal with the deceased's estate. Once the Registry is satisfied, they will issue a 'Letters of Administration'.

¹ Assets held in joint named accounts will be passed to the surviving account holder(s) upon the death of one of the joint account holders.

The Grant of Probate or the Letters of Administration, collectively known as the 'Grant of Representation', formally appoints the executor(s) or administrator(s) responsible for dealing with the estate of the deceased. The Grant of Representation proves that the Personal Representative has the authority to deal with the assets (as set out in the Schedule to the Grant) that the deceased owned.

Assistance may be obtained from the Official Administrator of the Probate Registry. You will find the contact details and relevant forms of the Probate Registry in **Appendix 1**.

To apply for the Grant of Representation, you will need to bring the following documents to the Probate Registry and you will be required to declare all assets held by the deceased:

- Original or certified copy of Death Certificate of the deceased
- Copy of Identity Card/Passport of the deceased
- Copy of Identity Card/Passport of the person applying for the Grant of Representation
- Original or certified copy of proof of relationship between the person applying for the Grant of Representation and the deceased e.g. marriage certificate for spouse, birth certificate for parents/children
- Original Will of the deceased, if any, together with a copy
- Any other original documents proving your entitlement to the Grant of Representation

In addition, please bring all statements of the deceased showing the balances as at the date of death. If you have applied for the details of accounts from HCBS, then all these details must be reflected in the Schedule to the Grant of Representation. By law, we can only release those funds or assets, e.g. investments, held in the account of the deceased to the Personal Representative if details about the specific account, including our company name and the account number, and the funds/assets held in it are accurately stated in the Schedule. The relevant sections of the Probate and Administration Ordinance (CAP 10) can be found in **Appendix 3**.

Therefore, if any of the deceased's account details are not listed in the Schedule, we would have to refer you back to the Probate Registry to amend the Schedule before we can release assets in the investment accounts to you. Please refer to **Appendix 3** for a sample of a typical Schedule.

Probate granted overseas

If the Probate is not granted in HKSAR, HCBS can only act on the Probate if it is 'resealed' by the High Court of the HKSAR (High Court). If the overseas Probate cannot be resealed by the High Court, you will need to apply for a fresh Grant of Representation. Please refer to the website of the High Court for more information in **Appendix 1**.

Handling small estate

If the deceased's entire estate in HKSAR as at the date of death does not exceed HKD50,000 in total, the deceased's entire estate in HKSAR comprises money only and the deceased does not hold any property as a trustee or as the manager of a Tso or Tong, a 'Confirmation Notice' may be applied for instead of the Grant of Representation. Applying for the Confirmation Notice is usually faster and cost less than the Grant of Representation. The Estate Beneficiaries Support Unit of the Home Affairs Department is responsible for this and their contacts can be found in **Appendix 1**.

If the value of the estate exceeds HKD50,000 or the estate includes property other than money (eg shares), you will have to visit the Probate Registry to apply for a Grant of Representation instead. Please refer to **Appendix 1** for Probate Registry information.

Sorting out HCBS accounts

We try to keep this as simple as possible but there are some processes that we must follow. Therefore, to help you understand what to expect, we have summarised what would probably happen for accounts held with us.

To move money out of the deceased's accounts and subsequently close them, the Personal Representative is suggested to visit our office at L25, HSBC Main Building, 1 Queen's Road Central with the following documents:

1. Original Grant of Representation issued by the High Court/Original Confirmation Notice issued by Director of Home Affairs
2. Original identification document of the Personal Representative
3. Original identification document of the deceased

We would then assist you to complete a request for the release of money/holdings from deceased account for you.

Cash and investments held under the name of the deceased with HCBS such as shares, unit trusts, bonds, foreign exchange contracts, futures contracts or bullion contracts, are considered part of the estate. Trading will not be allowed after notification of death. The intended Personal Representative should apply to us for a full statement of the deceased's investment holdings and cash balance, and include details of the HCBS account(s) and the relevant holdings and cash balance in the Schedule to the Grant of Representation.

Once the Grant of Representation is obtained, the Personal Representative can then instruct us how to deal with the investments and cash maintained in the deceased's accounts. The Personal Representative may instruct us to sell the investment holdings and then release the sale proceeds and cash balance to them or to transfer those holdings and cash balance to Personal Representative's investment account with HCBS or another financial organisation.

For joint accounts held by joint tenants, once we have formal confirmation of the death of a joint account holder, we would remove the deceased from those accounts so that they would now be held under the name of the surviving account holder(s). Please note that account number(s) will remain unchanged.

Disclaimer

Information provided in this Guide is true and accurate at the time of publication to the best of our knowledge. Please refer to the prevailing requirements for the latest information. The information provided in this Guide is for general awareness only and not exhaustive and should not be regarded as legal advice. You should contact your own legal advisor to obtain advice with respect to any particular issue. The applicable terms and conditions governing our products and services will apply.

The English text shall prevail in the event of any inconsistency between the English and Chinese versions.

Glossary—Legal terms explained

Administrator

The person appointed by the Court to administer an estate where there is no valid Will, or where the executor is unable, or unwilling, to act.

Beneficiary

A person who inherits all or part of the money or property from someone who has died.

Confirmation Notice

A document issued by the Director of Home Affairs of the Government of the HKSAR that enables the holder of the Notice to handle small estates of a deceased person, as set out in the schedule attached to the Notice.

Death Certificate

Also referred to as 'certified copy of a death entry'. This is a legal document issued by the registrar of the Deaths Registry certifying the death of a person.

The Estate

The total value of all assets owned by a person when they died – money, property and possessions – after any outstanding debts have been settled.

Executor

The person(s) named in a Will who is responsible for making sure the wishes of the person who died as expressed in the Will are carried out.

Grant of Letters of Administration

If a valid Will does not exist, this legal document appoints the administrator who is authorized to deal with the estate of the deceased.

Grant of Probate

An official document confirming that the Will is valid and appointing the executor(s) responsible for dealing with the estate of the deceased.

Grant of Representation

The Grant of Probate and the Grant of Letters of Administration, are collectively referred to as the Grant of Representation, which formally appoints the personal representative, ie the executor(s) or administrator(s), who is responsible for dealing with the estate of the deceased. The Grant of Representation is the document proving the personal representative has the authority to deal with the deceased's estate.

Intestacy

When someone dies without having made a valid Will, such a person will be referred to as 'having died intestate'.

Next of Kin

The closest related family member(s) of a person who has died. This is normally their husband, wife or their child/children.

Personal Representative

The person who is legally authorized to deal with the estate of the deceased.

Probate Registry

A division of the HKSAR Judiciary responsible for overseeing the granting of the Grants of Representation.

Will

A legal document by which a person sets out their wishes as to how their property is to be distributed at death, and names one or more person, i.e. the executor, to manage the estate until its final distribution.

Appendix

Appendix 1—Useful contact information

Deaths Registry, Immigration Department

Address: 3/F, Low Block, Queensway Government Offices, 66 Queensway, Hong Kong

Telephone: (852) 2867 2784

Website: https://www.immd.gov.hk/hkt/services/birth-death/Registering_a_death.html

Estate Beneficiaries Support Unit, Home Affairs Department

Address: 3/F, Southorn Centre, 130 Hennessy Road, Wan Chai, Hong Kong

Telephone: (852) 2835 1535

Website: <http://www.had.gov.hk/estates>

Probate Registry, the High Court of the HKSAR

Address: G/F, High Court Building, 38 Queensway, Hong Kong

Telephone: (852) 2840 0640

Website: <https://www.judiciary.hk/en/home/index.html>

Probate Registry – Guide to Court Services:

https://www.judiciary.hk/doc/en/court_services_facilities/probate.pdf

Probate Registry – Guide to the use of the Specified Forms:

https://www.judiciary.hk/en/court_services_facilities/probatef_form.html

The Treasury, The Government of the HKSAR

Address: 27/F, Immigration Tower, 7 Gloucester Road, Wan Chai, Hong Kong

Telephone: (852) 2598 9273

Website: https://www.try.gov.hk/internet/ehpens_useful.html

Appendix 2— Useful HSBC contact information

The Hongkong and Shanghai Banking Corporation Limited (HSBC)

If the deceased had an account with HSBC, the personal representative can visit any branch in Hong Kong and submit the original deceased documents for handling.

Life Insurance

If the deceased had a life insurance policy with HSBC, dedicated phone numbers, (852) 3128 0122 (Monday to Friday, except Public Holidays, 9am – 6pm) and (852) 2583 8000 (outside the above business hours) are available for the Personal Representative to call and make a claim on the policy. HSBC will guide the Personal Representative from start to finish and provide advice on the handling of the claims.

Retirement Schemes (Mandatory Provident Fund or MPF/Occupational Retirement Schemes Ordinance Scheme or ORSO)

If the deceased had an MPF account with HSBC, an MPF hotline is available for the Personal Representative to call and make an enquiry on (852) 3128 0128. If the deceased had an ORSO account with HSBC, the personal representative can call the ORSO hotline on (852) 2288 6655.

HSBC Global Asset Management

If the deceased had a brokerage account with HSBC Global Asset Management, the Personal Representative can call and make an enquiry on (852) 2284 1118 and take necessary actions.

Appendix 3—Probate and Administration Ordinance (CAP 10)

For your reference, you can refer to the below extracts of relevant Sections of CAP 10.

Website: <https://www.elegislation.gov.hk/hk/cap10>

Section 60J(2): Prohibition against intermeddling of estate

provides that ‘Any person who, without lawful authority or reasonable excuse, deals with any part of the estate of a deceased person... which is not set out in the schedule... commits an offence’.

Section 60K: Exemption from section 60J for estate not exceeding \$50,000

The Director of Home Affairs, under authority delegated by the Secretary for Home Affairs, may issue on application a Confirmation Notice in respect of a small estate. The Confirmation Notice certifies that the handling of the estate of a deceased person specified in the Schedule attached to the notice will be exempted from the relevant intermeddling provisions.

For your reference, you can refer to the example below of a Schedule of assets and liabilities.

Form No. N4.1:

https://www.judiciary.hk/doc/en/court_services_facilities/forms/formn4_1.pdf