

Enduring Power of Attorney explained

What is an Enduring Power of Attorney?

An Enduring Power of Attorney is a legal document that appoints one or more people (your Attorney/s) to make financial decisions for you (the Donor).

If you lose mental capacity, your Attorney must register the Enduring Power of Attorney with the High Court of Hong Kong in order to be able to make decisions on your behalf.

What is an Enduring Power of Attorney?

Before deciding if an Enduring Power of Attorney is right for you, you might want to consider seeking legal advice.

What important information do I need to know?

Mental capacity

You must have mental capacity to create an Enduring Power of Attorney. An Enduring Power of Attorney remains valid if you lose mental capacity, although it must be registered with the High Court of Hong Kong.

We will not add an Enduring Power of Attorney to our records when you remain mentally capable.

After a registered Enduring Power of Attorney is logged onto our system, the Customer (the Donor's) access to his / her account (s) will be removed.

We only accept an Enduring Power of Attorney executed in Hong Kong and in the form prescribed by the Enduring Power of Attorney Ordinance (CAP.501).

Restrictions

Restrictions can be included if there are certain things you don't want your Attorney to have control over. This may take longer to process if we need extra information from you.

Multiple Attorneys

If you nominate multiple Attorneys, you must specify on the Enduring Power of Attorney whether you want them to act jointly or individually.

Fees

There are no fees to register an Enduring Power of Attorney with us.

What access does an Enduring Power of Attorney give?

To see what powers an Attorney would have over your account, see our 'What an Attorney Can Do' table.

How do I grant an Enduring Power of Attorney?

If you feel an Enduring Power of Attorney may be right for you, you may want to seek independent legal advice to make sure the wording meets your needs and is legally acceptable.

Register an Enduring Power of Attorney with HSBC

Please refer to 'Registering a Power of Attorney with HSBC' page.

There are some important things to remember:

- ◆ We will need to see either the original Enduring Power of Attorney document or a copy certified by a qualified solicitor in Hong Kong. It must have been properly registered at the High Court of Hong Kong and your attorney will need to show us evidence of registration, such as a cover letter issued by the High Court with the registration number of the Enduring Power of Attorney, or an original or certified copy of the Enduring Power of Attorney sealed with the seal of the High Court of Hong Kong
- ◆ We will need to see a medical certificate confirming the mental incapacity of Donor
- ◆ We will need to see suitable documents for identification and address verification¹ from each Attorney wanting to act. If you have appointed multiple Attorneys, we will need suitable identification and address verification from each Attorney. For the list of documents we accept as proof of identity and confirmation of address, please refer to 'Points to note for Power of Attorney set up'
- ◆ Your Attorney/s must provide a specimen signature

When will Attorney access stop?

As long as you have mental capacity, you can choose to cancel an Enduring Power of Attorney at any time. You must tell us if you want to do this.

There are also certain events (such as if the Donor were to die) which would result in it being automatically revoked. For more information on events which may affect your Enduring Power of Attorney, see our 'Stopping Attorney Access' table.

Note:

1. Address verification is required if your Attorney is authorised to deal with your investment account

What an Attorney / a Delegate can do

An Attorney can help make decisions about someone's finances, or make decisions on their behalf.

If the Power appoints a sole Attorney or multiple Attorneys who can each act 'jointly and severally' (i.e. together or individually), the table below provides guidance on the services that we can provide.

If the Power appoints more than one Attorney to act together (i.e. 'jointly'), all Attorneys have to act together at all times.

A Delegate can help our accountholder to operate the specific account as stated in our standard form (i.e. Letter of Delegation).

If you have signed separate Letters of Delegation to appoint more than one Delegate to operate a specific account, each of the Delegates can give separate instructions to us over the operation of your account. They do not have to act jointly. Generally, an Attorney/a delegate may have the powers indicated below. However, if the Power of Attorney document contains restrictions, we need to comply with the restrictions which may mean that we cannot provide some of these services.

	General Power of Attorney ¹	Enduring Power of Attorney ²	Letter of Delegation signed at branch
Manage account holder's account(s) when the account holder has lost mental capacity	x	✓	x
Obtain information about account holder's account(s) (i.e. account enquiry)	✓	✓	✓
Open/ close Basic Banking Account with Independence with account holder	x	✓	x
Make payments (i.e. remittance)	✓	✓	✓
Withdraw / Deposit cash	✓	✓	✓
Deposit / Issue cheques	✓	✓	✓
Apply internet / mobile / phone banking service	x	x	x
Operate account via internet / mobile / phone banking	x	x	x
Apply ATM card	x	x	x
Operate account using ATM card	x	x	x
Order cheque book	✓	✓	✓
Order statement	✓	✓	✓
Order a replacement debit card / PIN for the account holder	x	x	x
Set up / amend / cancel standing instruction and AutoPay	✓	✓	✓
Change account holder's correspondence address	✓	✓	✓
Apply for new lending (Overdraft, Loan, mortgage and Credit Card)	x	x	x
Retrieve items from Safe Deposit Box	✓ Subject to the signing of 'Appointment of Deputy of Lessee(s) of a Safe Deposit Locker' by account holder	✓ Subject to the terms of the 'Enduring Power of Attorney'	✓ Subject to the signing of 'Appointment of Deputy of Lessee(s) of a Safe Deposit Locker' by account holder

Notes:

1. We may accept Specific Power of Attorney (or Special Power of Attorney) signed before a qualified solicitor of Hong Kong provided that the power given to the Attorney is clearly stated, reasonable and acceptable to us. We may verify the power with you if we consider necessary before accepting instructions from your Attorney.
2. We only accept Enduring Power of Attorney that has been registered with the High Court of Hong Kong and the Customer (Donor) is losing/has lost mental capacity. The services provided to the Attorney is subject to the powers and restrictions specified in the Enduring Power of Attorney.

Stopping Attorney access

	General Power of Attorney	Enduring Power of Attorney
Account holder (Donor) dies	The power is automatically revoked.	The power is automatically revoked.
Account holder (Donor) loses mental capacity	The power is automatically revoked.	The power remains valid if it has been registered at the High Court of Hong Kong.
Account holder (Donor) wants to cancel	The power is cancelled by Deed of Revocation or by a cancellation instruction from the account holder.	For a registered Enduring Power of Attorney, written confirmation of cancellation must be received from the High Court of Hong Kong. Alternatively, we will cancel the power if the account holder (Donor) regains mental capacity and instructs us to cancel the power. However, we will need to see written confirmation from a Hong Kong medical practitioner confirming mental capacity of the account holder.
Attorney dies	If there is only one Attorney, the power is automatically revoked. If there are multiple Attorneys appointed jointly and severally and one of them cannot continue to act for some reason, the other Attorney(s) may continue to act on behalf of the individual who granted the Power of Attorney.	If there is only one Attorney, the power is automatically revoked. If there are multiple Attorneys appointed jointly and severally and one of them cannot continue to act for some reason, the other Attorney(s) may continue to act on behalf of the individual who granted the Enduring Power of Attorney.
Attorney loses mental capacity	If there is only one Attorney, the power is automatically revoked. If there are multiple Attorneys appointed jointly and severally and one of them cannot continue to act for some reason, the other Attorney(s) may continue to act on behalf of the individual who granted the Power of Attorney.	If there is only one Attorney, the power is automatically revoked. If there are multiple Attorneys appointed jointly and severally and one of them cannot continue to act for some reason, the other Attorney(s) may continue to act on behalf of the individual who granted the Enduring Power of Attorney.
Attorney wants to cancel	If there is only one Attorney, the power is automatically revoked. If there are multiple Attorneys appointed jointly and severally and one of them cannot continue to act for some reason, the other Attorney(s) may continue to act on behalf of the individual who granted the Power of Attorney.	If there is only one Attorney, the power is automatically revoked. If there are multiple Attorneys appointed jointly and severally and one of them cannot continue to act for some reason, the other Attorney(s) may continue to act on behalf of the individual who granted the Enduring Power of Attorney.
Attorney becomes bankrupt	The power is automatically revoked.	The power is automatically revoked.