Highlights of Major Differences between the disclosure regime under previous Financial Disclosure Guidelines and the new regime under the Banking (Disclosure) Rules – applicable for Locally Incorporated AIs ("Local AIs")

Local AIs	Financial Disclosure Guidelines[1] (SPM modules FD-1 and FD-2)	Banking (Disclosure) Rules[2]	Section Reference

Application and Exemption Criteria	**Annual financial disclosures: FD-1**
	➢ Application
	▪ FD-1 applies to all AIs other than exempted AIs.
	➢ De minimis exemption
	▪ The AI is a DTC or RLB; and
	▪ the AI has:
	(i) total assets less provisions of less than HK$1 billion; and
	(ii) total deposits from customers of less than HK$300 million.
	➢ HKMA's assessment of exemption criteria
	▪ Based on the average of relevant figures reported in the 12 months up to and including August of each financial year.
		Annual financial disclosures: Part 4
		➢ Application
		▪ Part 4 applies to all AIs other than exempted AIs.
		➢ De minimis exemption
		▪ Same exemption criteria apply.
		➢ HKMA's assessment of exemption criteria
		▪ Based on the arithmetic mean of relevant figures[3] reported in a period of 12 calendar months **ending on and including the 5th calendar month preceding the close of the AI's financial year**.
			s.3(1) & 3(7) of DRs;
			paragraphs 7.1 & 7.2 of Guideline[4]
			s.3(10) & 3(17) of DRs;
			paragraph 7.3 of Guideline

1 Previously issued by the HKMA and apply to an AI's financial year up to and including 2007.

2 Referred to "Disclosure Rules" or "DRs" in the table.

3 "Relevant figures" means the figures as at the end of each calendar month relating to the AI's total assets less provisions and total deposits from customers, as set out in the return relating to assets and liabilities submitted by the AI to the HKMA for each calendar month pursuant to section 63 of the Banking Ordinance.

4 Guideline means SPM module CA-D-1 Guideline on the Application of the Banking (Disclosure) Rules.

Local AIs	Financial Disclosure Guidelines[1] (SPM modules FD-1 and FD-2)	Banking (Disclosure) Rules[2]	Section Reference
	<u>**Interim financial disclosures: FD-2**</u> ➢ <u>Application</u> ▪ Other than exempted AIs, FD-2 applies to all AIs to which FD-1 applies. ➢ <u>De minimis exemption</u> ▪ The AI is non-listed in the Hong Kong Stock Exchange and is wholly-owned subsidiary of AIs incorporated in Hong Kong.	<u>**Interim financial disclosures: Part 3**</u> ➢ <u>Application</u> ▪ Part 3 applies to all AIs other than exempted AIs. ➢ <u>De minimis exemption</u> ▪ Same exemption criteria apply.	s.3(2) & 3(8) of DRs; paragraphs 8.1 & 8.2 of Guideline
		<u>**Additional interim & annual disclosures: Parts 3 & 4**</u> ▪ **An AI shall disclose a breakdown of its Mainland exposures to non-bank counterparties, if the exposures are material,** into the categories in the return for non-bank Mainland exposures submitted by the AI to the Monetary Authority pursuant to s.63 of the Banking Ordinance in respect of the interim/annual reporting period.	s.28 & 49 of DRs paragraph 14.6 of Guideline
		<u>**Additional annual disclosures: Part 5**</u> ▪ Part 5 applies to an AI to which Part 4 applies and which uses the STC approach to calculate its credit risk for non-securitization exposures (including non-securitization exposures the subject of exemption under section 12(2)(a) of the Banking (Capital) Rules).	Part 5 of DRs
		<u>**Additional annual disclosures: Part 6**</u> ▪ Part 6 applies to an AI to which Part 4 applies and which uses	Part 6 of DRs

Local AIs	Financial Disclosure Guidelines[1] (SPM modules FD-1 and FD-2)	Banking (Disclosure) Rules[2]	Section Reference
		the BSC approach to calculate its credit risk for non-securitization exposures. **<u>Additional annual disclosures: Part 7</u>** ▪ Part 7 applies to an AI to which Part 4 applies and which uses the IRB approaches to calculate its credit risk for non-securitization exposures.	Part 7 of DRs
Approval for Exemption	▪ AI determines whether it is exempted from or subject to the disclosure guidelines based on the de minimis exemption criteria. ▪ For those DTCs and RLBs which have previously subject to the disclosure guidelines, they should continue to make disclosures notwithstanding they may meet the de minimis criteria in subsequent financial years.	▪ The HKMA will **give *<u>notice in writing</u>* to AIs which are exempted** from the application of the Disclosure Rules. ▪ Where the HKMA determines that an AI is not exempted from the annual financial disclosures under Part 4, the AI will not subsequently be exempted unless the HKMA makes a subsequent determination that the AI is exempted. The HKMA will only consider granting new exemptions where an AI can provide it with a business plan that indicates that the AI intends to reduce its business to levels that will permit it be able to meet the exemption criteria for an appropriate period (at least several years depending on the particular circumstances of the AI).	s.3(7), 3(8) & 3(11) of DRs paragraphs 7.5 of Guideline
Notice of Cessation of Exemption	▪ Not applicable.	▪ If the HKMA is satisfied that an exempted AI ceases to meet the exemption criteria, the HKMA will **give *<u>notice in writing</u>* to inform the AI that it ceases to be so exempted** from the date specified in the notice. ▪ If an AI wishes to be exempted or to continue to be exempted from compliance with the Disclosure Rules, it should **request its usual supervisory contact to conduct a review of its exemption status.**	s.3(12) & 3(13) of DRs; paragraphs 7.6 & 7.7 of Guideline

Local AIs	Financial Disclosure Guidelines[1] (SPM modules FD-1 and FD-2)	Banking (Disclosure) Rules[2]	Section Reference
Disclosure Policy	▪ No explicit requirement.	▪ **A clearly documented policy should be in place not later than 6 months after the commencement of the Disclosure Rules (i.e. on or before 30 June 2007) or after the date on which the AI became an AI, whichever is the later.** ▪ The disclosure policy has to: (a) set out the approach used by the AI to determine the content, appropriateness and frequency of the information it discloses to the general public relating to its state of affairs, profit and loss or CAR; and AI's internal controls over its process for making such disclosures (including internal controls for verifying or reviewing the accuracy of the information disclosed); and (b) be approved by the AI's board of directors.	s.5 of DRs; paragraph 13.2.1 of Guideline
Disclosure Statement - Form	(see "Disclosure Statement – Publish and Issue of Press Release" below)	▪ **Pursuant to section 6(3), a disclosure statement should contain:** **(a) all the disclosures required by the Disclosure Rules; or** **(b) a prescribed summary of the required disclosures.** ▪ **The prescribed summary should inform users of the disclosure statement the location at which and the means by which the general public may readily access all the disclosures** (e.g. certain disclosures may be found in an AI's annual report and accounts, its internet website; or internet website of the AI's parent bank or any combination of the above means).	s.6(3), 6(9), 6(10) & 6(11) of DRs; paragraphs 13.3.1, 13.3.2 & 13.3.3 of Guideline

Local AIs	Financial Disclosure Guidelines[1] (SPM modules FD-1 and FD-2)	Banking (Disclosure) Rules[2]	Section Reference
		▪ An AI which publishes the disclosure statement in the form of prescribed summary **must not change the means as stated in the summary by which the general public may readily access the relevant complete disclosures unless the AI amends its prescribed summary accordingly**. AI is required to lodge a copy of its revised prescribed summary with the HKMA, which will be kept in the register. ▪ An AI should ensure that neither the disclosures in (a) above, nor the prescribed summary in (b) above, nor any information published with the prescribed summary, is false or misleading in any material respect.	
Disclosure Statement – Publish and Issue of Press Release	▪ An AI should issue a press release in both Chinese and English within 4 months from the end of each financial year (for annual disclosures) or 3 months from the end of each interim financial year (for interim disclosures). ▪ An AI is encouraged to include in the press release as much as possible of the information required by the disclosure guidelines. It is not sufficient to issue a press release or advertisement which informs members of the public that a full set of accounts is available at the principal place of business or local branches of the AI without disclosing any information required. ▪ An AI should lodge a copy of the press release with the HKMA prior to issuance.	▪ The disclosure statement should be in Chinese and English languages. ▪ An AI should publish the disclosure statement: (a) not later than 4 months after the end of the reporting period for annual disclosures; (b) no later than 3 months after the end of the reporting period for interim disclosures. ▪ **An AI should make clear in the disclosure statement which information contained in the statement has been audited and which has not been audited**. ▪ An AI should, at the same time as it publishes its disclosure statement, **issue a press release to the press in Hong Kong,** in the Chinese and English languages **containing the statement or consisting of the statement**.	s.6(1), 6(2), 6(4) & 6(5) of DRs; paragraphs 13.3.4 & 13.3.5 of Guideline

Local AIs	Financial Disclosure Guidelines[1] (SPM modules FD-1 and FD-2)	Banking (Disclosure) Rules[2]	Section Reference
		▪ A press release is said to "contain" the disclosure statement if it contains other information that is not subject to the disclosure requirements of the Disclosure Rules. ▪ A press release is said to "consist" of the disclosure statement if it only contains information that the AI is required to disclose under the Disclosure Rules (i.e. it does not include disclosures made under other requirements such as Hong Kong Financial Reporting Standards). ▪ An AI should lodge a copy of its disclosure statement with the HKMA before it publishes the statement.	
Location of Disclosure	▪ A copy of the disclosure statement should be displayed in the AI's principal place of business in Hong Kong and if applicable in each local branch. ▪ The disclosure statement should be made readily available to members of the public upon request. ▪ The HKMA will keep a copy of the press release in its register.	▪ Same requirements under the Disclosure Rules. ▪ The disclosure statement should be made available for inspection by the general public **during the business hours of the AI** at the place where the relevant copy is kept. ▪ The HKMA will keep each copy of a disclosure statement lodged with it with the register. ▪ AI which publishes the disclosure statement **in the form of a prescribed summary should ensure the complete disclosures are readily accessible by the general public**: (a) on a Hong Kong internet website; (b) if applicable, in the AI's annual reports and accounts;	s.6(6), 6(7) & 6(11) of DRs; paragraph 13.3.7 of Guideline

Local AIs	Financial Disclosure Guidelines[1] (SPM modules FD-1 and FD-2)	Banking (Disclosure) Rules[2]	Section Reference
		(c) if applicable, on an internet website of the AI's parent bank; or (d) any combination of the means above.	
Period and Time Available for Inspection	▪ No explicit requirement.	▪ **The disclosure statement must be available for inspection until at least the next equivalent reporting period.**	s.6(8), 6(9) & 6(10) of DRs paragraph 13.3.8 of Guideline
Interaction with Other Requirements	▪ The disclosure guidelines supplement and does not replace any other disclosures required under the relevant legislation or accounting standards or which are necessary to show a true and fair view of the financial state or affairs of the AI.	▪ If an AI makes a disclosure ("external disclosure") pursuant to a requirement other than the Disclosure Rules ("external requirement") where the external requirement is similar to a requirement by the Rules and the external disclosure is available to the general public in Hong Kong, the AI **may rely on the external disclosure as complying with the requirement of the Rules** provided that the AI *demonstrates to the HKMA's satisfaction* that it meets the conditions specified under s.7(d) and (e) of the Disclosure Rules.	s.7(d) & (e) of DRs; paragraphs 13.4.1, 13.4.2 & 13.4.3 of Guideline
Group-wide Disclosures made by Parent Bank	▪ Not applicable.	▪ **An AI may rely on the disclosures made by its parent bank** as complying with the requirements of the Disclosure Rules provided that the AI *demonstrates to the HKMA's satisfaction* that it meets the conditions specified under s.15(a) to (g) of the Disclosure Rules.	s.15 of DRs
Verification	▪ No explicit requirement.	▪ AI's **senior management must ensure that the information is scrutinized and subjected to internal review** before being so disclosed, to ensure that the information is not false or misleading in any material respect.	s.8 of DRs; paragraphs 13.5.1 & 13.5.2 of Guideline

Local AIs	Financial Disclosure Guidelines[1] (SPM modules FD-1 and FD-2)	Banking (Disclosure) Rules[2]	Section Reference
		▪ "Internal review" means the review is carried out by AI's adequately qualified personnel who are independent of the AI's staff or management responsible for preparing the information which the AI is required to disclose.	
Proprietary and Confidential Information	▪ Not applicable.	▪ With the <u>*HKMA's prior consent*</u>, an **AI may decline to disclose proprietary or confidential information** pursuant to the requirement of the Disclosure Rules if the AI discloses general information relating to the subject matter of the relevant requirement and includes a statement in the disclosure statement stating what information it has declined to disclose. ▪ "Proprietary or confidential information" means information - (a) which, if it becomes publicly available, will cause serious prejudice to the competitive position of the AI; or (b) in respect of which the AI has legally binding obligations to its customers or other counterparties which prevent the AI from disclosing the information.	s.9 of DRs; paragraphs 13.6.1 to 13.6.4 of Guideline
Materiality	▪ An AI is not required to disclose items which are not material. An item should be regarded as material to an AI if the omission or misstatement of that item could have changed or influenced the judgement or decision of a user relying on the relevant information.	▪ **Senior management of an AI should ensure that a disclosure made pursuant to the Disclosure Rules contains all the material information.** ▪ "Material information", means information – (a) which is required to be disclosed under the Disclosure Rules; and (b) which, if it is not disclosed or is misstated, can change or influence the assessment or decision of a person relying	s.10 of DRs; paragraphs 13.7.1 to 13.7.3 of Guideline

Local AIs	Financial Disclosure Guidelines[1] (SPM modules FD-1 and FD-2)	Banking (Disclosure) Rules[2]	Section Reference
		on the disclosure concerned for the purposes of making investment or other economic decisions. ▪ An AI should, at a minimum, also observe materiality as defined and interpreted in applicable accounting standards (HKAS 1 and HKAS 8).	
Consolidated Group Level Disclosure	▪ For disclosure in relation to capital adequacy framework, it should be made on a consolidated basis if the AI is required to calculate its CAR on a consolidated basis. Otherwise, the disclosure should be on solo basis. ▪ If an AI only presented consolidated financial statements, the disclosure of supplementary financial information needs only be made on the basis of the consolidated financial statements. However, disclosure of additional information on a solo-basis is encouraged.	▪ The Disclosure Rules **applies to the AI on a consolidated basis** (i.e. the basis of consolidation for capital adequacy purposes) **except for exempted provisions under s.11(4)** of the Disclosure Rules, unless the AI is only required to calculate its CAR on a solo basis under the Banking (Capital) Rules. ▪ However, the AI may include disclosures on a solo basis in addition to a consolidated basis to provide greater clarity in understanding the AI's state of affairs, profit and loss or CAR. ▪ **For exempted provisions under s.11(4), the basis of preparation is left to the AI's discretion to choose the most appropriate basis** for providing clarity in understanding for users of disclosures, including the consolidated basis used for the purposes of financial reporting. ▪ For provisions specified under s.11(6) of the Disclosure Rules in relation to disclosures of non-bank Mainland exposures, currency risk and liquidity ratio, an AI should make disclosures on the same basis as that used by the AI in preparing the regulatory returns reported to the HKMA.	s.11 of DRs; paragraphs 13.8.1 to 13.8.3 of Guideline
Basis of Disclosure	▪ Not applicable.	▪ AI should make disclosures **on the basis of the approach it uses to calculate its regulatory capital for credit risk, and capital charges for market risk and operational risk.**	s.12 of DRs; paragraphs 13.9.1 to 13.9.3 of Guideline

Local AIs	Financial Disclosure Guidelines[1] (SPM modules FD-1 and FD-2)	Banking (Disclosure) Rules[2]	Section Reference
		▪ If an AI uses a combination of 2 or more approaches to calculate its credit risk, market risk or operational risk, it should make disclosures on the basis of the respective approach it uses for each of its exposure classes, business units, risk categories or parts of its business. ▪ If an AI under any one reporting period has used different approaches to calculate its credit risk, market risk or operational risk for the same exposure classes, business units, risk categories, or parts of its business, it should make disclosures on the basis of the respective approach it uses as at the reporting date for that period.	
Comparative Information	▪ Except for profit and loss information and liquidity ratio, the corresponding amounts for the immediately preceding financial year-end should be given. ▪ For profit and loss information and liquidity ratio, the amounts for the corresponding period of the preceding financial year should be given. ▪ Where the disclosures are applied for the first time, and it is impractical to apply the disclosures retrospectively, the comparative disclosure need not apply for the first year.	▪ Same requirements as previously required by the financial disclosure guidelines. ▪ Same requirements as previously required by the financial disclosure guidelines. ▪ Same requirements as previously required by the financial disclosure guidelines. ▪ Notwithstanding that the requirement of comparative disclosure does not apply to an AI for a reporting period, the AI should, if it is practicable to do so, ensure that the disclosure is accompanied by comparative disclosure.	s.13 of DRs; paragraphs 13.10.1 to 13.10.5 of Guideline

Local AIs	Financial Disclosure Guidelines[1] (SPM modules FD-1 and FD-2)	Banking (Disclosure) Rules[2]	Section Reference
		▪ **If an AI uses, in 2 consecutive annual reporting periods, different approaches to calculate its credit risk, market risk and operational risk** for the same exposure class, business unit, risk category, or part of its business, the **comparative disclosure is not required for the last of those periods** if the AI provides reasons in the disclosure statement. ▪ **An AI should notify its usual supervisory contact if it intends to use any of the exceptions permitted under the Disclosure Rules.** ▪ **Where there has been a material restatement of the comparative disclosure, the AI should provide the nature and reason of the restatement** in the disclosure statement.	
Frequency of Disclosure	▪ An AI should make annual disclosure in accordance with FD-1 and interim disclosure in accordance with FD-2.	▪ An AI should make annual disclosure in respect of its last financial year in accordance with Part 4 and Part 5, 6 or 7 of the Disclosure Rules, as applicable, and interim disclosure in respect of the 6 months period immediately after the close of AI's last financial year in accordance with Part 3.	s.14 of DRs; paragraphs 13.11.1 & 13.11.2 of Guideline
Compliance	▪ The Seventh Schedule of the Banking Ordinance includes adequate disclosure of financial information as one of the criteria for continuing authorization. Failure to meet the authorization criteria in the Seventh Schedule would be a ground for revocation of authorization.	▪ **Any non-compliance with the Disclosure Rules will constitute a criminal offence** by the AI's director, chief executive and manager under s.60A of the Banking Ordinance. ▪ **Where it is not practicable for an AI to make a disclosure required by the Disclosure Rules for reasons not related to proprietary and confidential information, the AI should, after *consultation with the HKMA*, include in its disclosure statement:**	s.16 of DRs; paragraphs 13.12.1 & 13.12.2 of Guideline

Local AIs	Financial Disclosure Guidelines[1] (SPM modules FD-1 and FD-2)	Banking (Disclosure) Rules[2]	Section Reference
		(a) a statement that it is unable to make the disclosure and the reasons why it is unable to do so; and **(b) information which is the closest available alternative to that required to be disclosed under the Disclosure Rules.** **In these circumstances the AI should also obtain the *prior consent of the HKMA* before publishing its disclosure statement.**	
Statement of Compliance	▪ AI is required to issue a statement of compliance stating the extent of its compliance with the disclosure standards set out in the disclosure guidelines and the reason of any non-compliance.	▪ **Issuance of statement of compliance is no longer applicable under the Disclosure Rules.** ▪ **However, an AI will be required to state whether or not, during the reporting period, it was in contravention of rules made under section 60A(1) (i.e. Disclosure Rules) in the return relating to certificate of compliance with the Banking Ordinance.**	n/a