Hong Kong Monetary Authority 香港金融管理局

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Our Ref: CB/POL/1/4/2
CB/POL/6/3
CB/POL/1/9/10

15 November 1995

To : The Chief Executive
All Authorized Institutions
and
The Chief Representative
All Representative Offices

Dear Sir/Madam,

Commencement of the Banking Amendment Ordinance 1995

Further to my letter of 3 July, I am writing to inform you that the Banking (Amendment) Ordinance 1995 (the Ordinance) commences operation today, 15 November 1995. The commencement notice was published in the Gazette on 10 November. Matters relating to the commencement of the Ordinance are set out below.

Guide to Applicant

One of the main objectives of the Ordinance is to establish the Monetary Authority (MA) as the authority responsible for the authorization, suspension and revocation of all three types of authorized institution. The MA has published a Guide to Applicants (the Guide) to set out his interpretation of the authorization criteria and the grounds for revocation contained in the Ordinance and the procedures for processing applications for authorization.

The Guide is relevant to institutions intending to seek approval for authorization under the Banking Ordinance as well as to existing authorized institutions. The authorization criteria are of a continuing nature. Failure to meet them by existing authorized institutions would mean that the MA's powers of revocation would become exercisable in respect of such institutions (although there is discretion on their use). Chapter 4 of the Guide sets out the MA's interpretation of each of the authorization criteria in the Seventh Schedule of the Ordinance and its content will form a guideline to be issued under section 16(10) of the Ordinance to indicate how the MA proposes to exercise his functions under that Schedule. The guideline will be published in the Gazette on 17 November 1995.

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Each authorized institution and representative office may obain a copy of the Guide, free of charge, at our Public Registry at:

29/F, Asia Pacific Finance Tower
3 Garden Road
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Additional copies of the Guide may be purchased at $300 per copy at the Government Publications Centre at Queensway Offices, Lower Block, Ground Floor, 66 Queensway, Hong Kong. Future updates of the Guide will be mailed to all authorized institutions and representative offices without charge.

Use of Banking Names and Descriptions

Under section 97(1) of the Ordinance, it is an offence for any person, other than a bank (i.e. one which is authorized under the Ordinance) or a central bank, without the written consent of the MA

(a) to use the word "bank" or any of its derivatives in English, or any translation thereof in any language, or use the Chinese expression "ngan hong" (銀行), or use the letters "b", "a", "n", "k" in that order, in the description or name under which such person is carrying on business in Hong Kong; or

(b) to make any representation in any bill head, letter paper, notice, advertisement or in any other manner that such person is a bank or is carrying on banking business in Hong Kong.

Section 97(1) provides that the consent of the MA may be granted generally, or in any particular case or class of case. The MA has issued a general consent under section 97(1) (attached). Eligible companies may use the word "bank" in their business names or descriptions in the manner specified in the general consent. The general consent supersedes the circular issued on 17 September 1994 on the same subject.

Use of Chinese

Section 132(2) of the Ordinance provides that all forms and information required to be sent and all returns required to be made to the MA shall be compiled in the Chinese or English language (although the Arabic system of numerals must be used). The MA has prepared bi-lingual versions of the regular returns which authorized institutions are required to submit under the Banking Ordinance. They are available for collection at our Public Registry (see paragraph 2). Authorized institutions may however continue to use the existing English versions of the returns if they so choose. The translation into Chinese of the Completion Instructions for the returns is under way. After completion, the Chinese version of the Instructions will be made available on request and authorized institutions will be notified accordingly.

"One building" condition
(This is only applicable to banks (the relevant banks) and restricted licence banks (the relevant RLBs) which are subject to the "one building" condition.)

The condition requiring relevant banks/relevant RLBs to conduct their banking business/business of taking deposits in only one building (the "one building" condition) was attached to the licences of the relevant banks and relevant RLBs by the Governor in Council and the Financial Secretary respectively. This condition was relaxed in September 1994 by allowing the relevant banks and relevant RLBs to establish one regional office and one back office in locations separate from the branch office. Guidelines on activities that may be conducted by such regional offices and back offices have been issued to relevant banks and relevant RLBs by the Governor in Council and the Financial Secretary respectively.

Under the Ordinance, the authority to attach a condition to the licence of a bank or a RLB is now vested in the MA. Pursuant to section 152(5) of the Ordinance, the "one-building" condition is deemed to be a condition attached to the licence of relevant banks and relevant RLBs as if the MA has attached such a condition to their respective licences on the commencement of the Ordinance. Accordingly, the MA has re-issued the guideline under his name to replace those previously issued by the Governor in Council and the Financial Secretary. The replacement guideline will be published in the Gazette on 17 November 1995 and a copy is enclosed for the relevant institutions' information.

If you have any queries on the above matters, please contact Mr Nelson Man at 2878 1649.

Yours sincerely,

(D T R Carse)
Deputy Chief Executive (Banking)

c.c. The Chairman, HKAB
The Chairman, DTC Association