



Circulars

14 May 2002

Banking (Amendment) Ordinance 2001

Our Ref : G4/26/5C
B1/15C

14 May 2002

To: The Chief Executive
All authorized institutions
The Chief Representative
All local representative offices
The Chief Executive
All money brokers

Dear Sir/Madam,

Banking (Amendment) Ordinance 2001

Further to my letter of [10 January 2002](#), I write to advise you that the Banking (Amendment) Ordinance 2001 is scheduled to commence operation on [24 May 2002](#). In accordance with the Amendment Ordinance, you are required to take the actions set out in the following paragraphs.

Appointment of managers

For the purposes of the new section 72B, authorized institutions (AIs) are required to submit a full list of their managers as of 24 May 2002 to the Monetary Authority (MA) before 7 June 2002, using the form at [Annex I](#). Thereafter, AIs are required to notify the MA and the manager concerned of any changes to existing appointments within 14 days of the change, using the form at [Annex II](#). Such changes include new appointments, cessation of existing appointments and changes in the responsibilities of existing managers. In all these cases, the completed form should be accompanied by a covering letter signed by the Chief Executive of the reporting AI.

Upon the appointment of each manager, AIs are required to provide the manager with a copy of the letter at [Annex III](#) and the explanatory note at [Annex IV](#). The letter informs managers of AIs of the purpose for which their data to be collected by the MA are to be used and the classes of persons to whom the data may be transferred. The explanatory note highlights the legal obligations of managers of AIs under the Banking Ordinance. This is to ensure that the individuals appointed as managers are made aware of their rights under the Personal Data (Privacy) Ordinance and their legal obligations of being a manager under the Banking Ordinance. AIs are expected to maintain a register of their acknowledgement of the letter

and the explanatory note. Where necessary, the MA may request AIs to produce such records for review.

In collecting, holding, processing or using the personal data of the managers pursuant to section 72B, AIs should also be aware that they may be regarded as data users and hence the provisions of the Personal Data (Privacy) Ordinance may apply to them.

Revised definition of "local branch"

As mentioned in my previous letter of 10 January 2002, AIs should provide the MA with a list of offices grandfathered as "local branches" under the new section 44(3A). The list showing the address of such offices should be submitted to the MA before 7 June 2002.

In accordance with the new section 45(3), AIs are required to pay an annual fee for maintaining a local branch grandfathered under section 44(3A) on the anniversaries of their dates of authorization. For AIs whose dates of authorization fall immediately after the commencement of the Amendment Ordinance (between 24 May and June 2002), the regular demand note for payment of licence fees issued by the HKMA will not be able to include the annual fees payable in respect of these "grandfathered" branches. In such cases, a separate demand note will be issued to the AIs concerned and they should pay the relevant fees within the period specified in the note.

New definition of "local office"

AIs are also required under the new section 45A(2) to submit a list of existing "local offices" to the MA not later than 3 months after the commencement of the Amendment Ordinance (i.e. 24 August 2002). The list should show -

- i. the address of these "local offices"; and
- ii. the nature of the business of the AI to be promoted or assisted from these offices.

In conjunction with the commencement of the Amendment Ordinance, supervisory guidelines on "Systems of Control for the Appointment of Managers" and "Regulation of Advertising Materials for Deposits Issued over the Internet" will be issued and published in the gazette on the day the Amendment Ordinance commences operation. These guidelines will be available on the HKMA's website.

Should you have any questions relating to the Amendment Ordinance, please contact Ms Linda Yiu at 2878 8280 or Mr Raymond Chan at 2878 1846.

Yours faithfully,

D T R Carse
Deputy Chief Executive

Encl: [Annex I](#) (MS Word, 26KB)
 [Annex II](#) (MS Word, 24KB)

[Annex III](#) (PDF, 686KB)

[Annex IV](#) (PDF, 108KB)

c.c. Chairman of the Hong Kong Association of Banks
 Chairman of the DTC Association
 SFS (Attn: Ms Kinnie Wong)

Last revision date : 01 August 2011