Table 2

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

Foreign AIs	Financial Disclosure Guidelines[1] (SPM module FD-3)	Banking (Disclosure) Rules[2]	Section Reference
Application and Exemption Criteria	➢ Application ▪ FD-3 applies to all AIs other than exempted AIs.	➢ Application ▪ Part 8 applies to all AIs other than exempted AIs.	s.3(6) & 3(9) of DRs; paragraphs 12.1 & 12.2 of Guideline[4]
	➢ De minimis exemption ▪ The AI has: (i) total assets less provisions of less than HK$10 billion; and (ii) total deposits from customers of less than HK$2 billion.	➢ De minimis exemption ▪ The following criteria must be met by the AI: (i) its local branches, together with its principal place of business in Hong Kong, have in aggregate total assets less provisions of less than HK$10 billion (or the equivalent amount in any foreign currency); and (ii) its local branches, together with its principal place of business in Hong Kong, have in aggregate total deposits from customers of less than HK$2 billion (or the equivalent amount in any foreign currency).	
	➢ 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.	➢ 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(10) & 3(17) of DRs; paragraph 12.2 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.

Foreign AIs	Financial Disclosure Guidelines[1] (SPM module FD-3)	Banking (Disclosure) Rules[2]	Section Reference
Approval for Exemption	▪ AI determines whether it is exempted from or subject to the disclosure guidelines based on the de minimis exemption criteria.	▪ The HKMA will **give *notice in writing* to AIs which are exempted** from the application of the Disclosure Rules.	s.3(9) of DRs; paragraph 12.3 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 *notice in writing* 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(14) of DRs; paragraphs 12.3 & 12.4 of Guideline
Disclosure Statement - Form	(see "Disclosure Statement – Publish and Issue of Press Release" below)	▪ **Pursuant to section 88(2), 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. the AI's internet website while the required consolidated group level disclosures may be found in an AI's consolidated accounts). ▪ 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**. An AI is required to lodge a copy of its revised prescribed summary with the HKMA, which will be kept in the register.	s.88(2), 88(8)(b) & 88(10) of DRs; paragraphs 19.2.1 to 19.2.3 of Guideline

Foreign AIs	Financial Disclosure Guidelines[1] (SPM module FD-3)	Banking (Disclosure) Rules[2]	Section Reference
		▪ 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 3 months from the end of each financial period. ▪ 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. ▪ 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 no later than 3 months after the end of the reporting period. ▪ An AI should, at the same time as it publishes its disclosure statement, **issue a press release in Hong Kong,** in the Chinese and English languages **containing the statement or consisting of the statement**. ▪ 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 (for example disclosures made under the relevant accounting standards). ▪ 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 the relevant accounting standards). ▪ An AI should lodge a copy of its disclosure statement with the HKMA before it publishes the statement.	s.88(1), 88(3) &.88(4) of DRs; paragraphs 19.2.4 & 19.2.5 of Guideline
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.	▪ Same requirements under the Disclosure Rules.	s.88(5), 88(6) & 88(10) of DRs; paragraph 19.2.7 of Guideline

Foreign AIs	Financial Disclosure Guidelines[1] (SPM module FD-3)	Banking (Disclosure) Rules[2]	Section Reference
	▪ 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.	▪ 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** on an internet website or by any other means or combination of means.	
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.88(7), 88(8), 88(9) of DRs; paragraphs 19.2.6 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.	▪ The chief executive 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 on the disclosure concerned for the purposes of making investment or other economic decisions. ▪ An AI which adopts International Financial Reporting Standards (IFRS) or equivalent accounting standards in preparing its financial accounts should, at a minimum, also	s.89 of DRs; paragraphs 19.3.1 to 19.3.3 of Guideline

Foreign AIs	Financial Disclosure Guidelines[1] (SPM module FD-3)	Banking (Disclosure) Rules[2]	Section Reference
		observe the materiality concept as set out in the IFRSs or equivalent accounting and financial reporting standards.	
Comparative Information	▪ Except for pre-tax profit disclosure, profit and loss information and liquidity ratio, the corresponding amounts for the immediately preceding financial period should be given. ▪ For pre-tax profit disclosure, profit and loss information and liquidity ratio, the amounts for the corresponding period of the preceding financial year should be given. ▪ Where interim consolidated information is not provided by an AI as a whole, annual figures should be provided as comparatives. ▪ 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 reporting period.	▪ 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. ▪ Where the disclosures did not exist prior to the Disclosure Rules coming into effect, and it is not practicable for the AI to apply the Rules retrospectively, no comparative information is required. However, this exception **only applies for the first year of the operation** of the Rules and AIs should include comparative information if it is practicable for them to do so. ▪ **An AI should notify its usual supervisory contact if it intends to use any of the exceptions permitted under the Disclosure Rules.**	s.90 of DRs; paragraphs 19.4.1 to 19.4.4 of Guideline
Frequency of Disclosure	▪ AI should make disclosure on a half-yearly basis.	▪ Same requirements as previously required by the financial disclosure guidelines.	s.91 of DRs; paragraph 19.5.1 of Guideline
Compliance	▪ Not specified.	▪ **An AI's disclosure statement should also contain such other information as is necessary to ensure that the information contained in the disclosure statement is not**	s.92 of DRs paragraphs 19.6.1 &

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		false or misleading to any material respect, and that the operations of the AI are clearly explained. ▪ **Where it is not practicable for an AI to make a disclosure required by the Disclosure Rules, the AI should, after *<u>consultation with the HKMA</u>*, include in its disclosure statement:** **(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 *<u>prior consent of the HKMA</u>* before publishing its disclosure statement.**	19.6.2 of Guideline
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