



HONG KONG MONETARY AUTHORITY
香港金融管理局

Our Ref.: B9/75C
B9/124C/2C

22 May 2017

The Chief Executive
All locally incorporated authorized institutions

Dear Sir/Madam,

Financial Institutions (Resolution) Ordinance – consequential amendments to Banking (Capital) Rules

I am writing to draw your attention to two consequential amendments introduced in the Financial Institutions (Resolution) Ordinance (Cap. 628) (“Ordinance”) relating to the qualifying criteria for capital instruments issued by authorized institutions incorporated in Hong Kong (“AIs”) under the Banking (Capital) Rules (Cap. 155L) (“BCR”).

As you may be aware, the Financial Institutions (Resolution) Ordinance (Commencement) Notice 2017 (“Commencement Notice”) was gazetted on 12 May 2017. Under the Commencement Notice, the Ordinance (except Part 8, section 192 and Division 10 of Part 15) will come into operation on 7 July 2017. This covers, inter alia, two consequential amendments to the BCR (as set out in sections 212 and 213 of the Ordinance) requiring that for any capital instrument to be qualified as Additional Tier 1 capital of an AI under Schedule 4B of the BCR or Tier 2 capital of an AI under Schedule 4C of the BCR, the terms and conditions of the instrument must contain a provision to the effect that the holder of the instrument –

- (i) acknowledges that the instrument is subject to being written off, cancelled, converted or modified, or to having its form changed, in the exercise of powers under the Ordinance;
- (ii) agrees to be bound by any such write off, cancellation, conversion, modification or form change; and

- (iii) acknowledges that the rights of the holder are subject to anything done in the exercise of those powers.

The Commencement Notice was tabled before the Legislative Council on 17 May 2017 for negative vetting. To qualify as Additional Tier 1 capital or Tier 2 capital of an AI under the BCR, any instrument issued on or after the commencement date of the Ordinance (i.e. 7 July 2017 subject to negative vetting by the Legislative Council) will be required to meet the additional criterion described above. We will inform you when the negative vetting process is completed.

Yours faithfully,

Daryl Ho
Executive Director (Banking Policy)

c.c. The Chairperson, The Hong Kong Association of Banks
The Chairman, The DTC Association
FSTB (Attn: Ms Eureka Cheung)