Annex

Proposed Amendments to Banking (Capital) Rules for Countercyclical Capital Buffer ("CCyB") and miscellaneous items

Part 1

Preliminary

1. Commencement

These Rules come into operation on a day to be appointed by the Monetary Authority by notice published in the Gazette, which must not be before 1 January 2024.

2. Rules amended

The Banking (Capital) Rules (Cap. 155 sub. leg. L) are amended as set out in Part 2.

Part 2

CCyB and Miscellaneous Amendments

3. Section 3A repealed (minimum capital adequacy ratio applicable to authorized institutions in 2013 and 2014)

Section 3A—

Repeal the section.

4. Section 3B amended (minimum capital adequacy ratio applicable to authorized institutions from 2015)

(1) Section 3B, heading—

Repeal

"**from 2015**".

(2) Section 3B—

Repeal

"on and after 1 January 2015".

5. Section 3D amended (authorized institution must notify Monetary Authority of failure to have minimum capital adequacy ratio)

Section 3D—

Repeal

"3A or".

6. Section 3F amended (distribution payment requirements)

Section 3F—

Repeal subsection (1).

7. Section 3J amended (what authorized institution must do where net CET1 capital ratio above buffer level)

Section 3J—

Repeal subsection (1).

8. Section 3K amended (what authorized institution must do where net CET1 capital ratio not above buffer level)

Section 3K—

Repeal subsection (1).

9. Section 3L amended (other requirements)

Section 3L—

Repeal subsection (1).

10. Section 3M amended (CB ratio)

(1) Section 3M—

Repeal

"section 3G—"

Substitute

"section 3G is 2.5%.".

(2) Section 3M—

Repeal paragraphs (a), (b), (c), (d) and (e).

11. Section 3P amended (applicable JCCyB ratio for jurisdictions outside Hong Kong)

(1) Section 3P—

Repeal subsection (2).

(2) Section 3P(3)—

Repeal

"Subject to subsection (2)"

Substitute

"For this Part".

(3) Section 3P(4)—

Repeal

"the risks posed to the institutions because of the excessive credit growth in the"

Substitute

"identified system-wide risks related to that".

(4) Section 3P(5)—

Repeal

"(2), (6), (7), (8), (9) and (10)"

Substitute

"(6), (7), (8) and (9)".

(5) Section 3P(7)—

Repeal

"Subject to subsections (2) and (10), if"

Substitute

"If".

(6) Section 3P(8)—

Repeal

"subsections (9) and (10)"

Substitute

"subsection (9)".

(7) Section 3P(9)—

Repeal

"subject to subsection (10),".

(8) Section 3P—

Repeal subsection (10).

12. Section 3Q amended (applicable JCCyB ratio for Hong Kong)

(1) Section 3Q—

Repeal subsection (1).

(2) Section 3Q—

Repeal subsections (2), (3) and (4)

Substitute

"(2) The applicable JCCyB ratio for Hong Kong is the applicable JCCyB ratio announced by the Monetary Authority under subsection (3).

(3) Subject to subsection (7), the Monetary Authority may announce, in accordance with subsection (10), a ratio of 0% or greater that the Monetary Authority considers prudent to be the applicable JCCyB ratio for Hong Kong.

(4) In determining under subsection (3) whether a ratio is prudent, the Monetary Authority may take into account—

(a) the extent of risks for the financial system of Hong Kong; and

(b) any other matters the Monetary Authority considers relevant.".

(3) Section 3Q—

Repeal subsections (5) and (6).

(4) Section 3Q(7)—

Repeal

"The Monetary Authority may announce"

Substitute

"The Monetary Authority, after consulting the Banking Advisory Committee, the Deposit-taking Companies Advisory Committee, The Hong Kong Association of Banks and The DTC Association, may announce".

(5) Section 3Q(7)(b)—

Repeal

"pace of credit growth did not slow by any material extent"

Substitute

"system-wide risks did not materially recede".

(6) Section 3Q(7)(c)—

Repeal

"expected credit growth and the build-up of system-wide risks in"

Substitute

"the build-up of system-wide risks for".

(7) Section 3Q(9)—

Repeal

"associated with a period of excessive credit growth".

(8) Section 3Q(10)—

Repeal

"(6),".

13. Section 3T amended (HLA ratio as applicable to G-SIB)

(1) Section 3T(2)—

Repeal

"concerned—"

Substitute

"concerned must be not less than 1% and not more than 3.5%.".

(2) Section 3T(2)—

Repeal paragraphs (a), (b), (c), (d) and (e).

14. Section 3V amended (HLA ratio as applicable to D-SIB)

(1) Section 3V(2)—

Repeal

"concerned—"

Substitute

"concerned must be not less than 1% and not more than 3.5%.".

(2) Section 3V(2)—

Repeal paragraphs (a), (b), (c), (d) and (e).

15. Section 43 amended (deductions from CET1 capital)

(1) Section 43(1)(n)—

Repeal

"any capital investment in a connected company of the institution where that connected company is a commercial entity to the extent that the net book value of such investment"

Substitute

"in respect of any capital investment in a connected company of the institution where that connected company is a commercial entity, that part of the net book value of the investment that".

16. Schedule 4B amended (qualifying criteria to be met to be Additional Tier 1 capital)

Schedule 4B—

Repeal

"Schs. 4D & 4H".

Substitute

"Sch. 4D".

17. Schedule 4C amended (qualifying criteria to be met to be Tier 2 capital

Schedule 4C—

Repeal

"Schs. 4D & 4H".

Substitute

"Sch. 4D".

18. Schedule 4D amended (requirements to be met for minority interests and capital instruments issued by consolidated bank subsidiaries and held by third parties to be included in authorized institution's capital base)

(1) Schedule 4D, section 3(1A)(a)(i)—

Repeal

"sections 3A and"

Substitute

"section".

(2) Schedule 4D, section 3(1A)(a)(ii)—

Repeal

"2.5%"

Substitute

"the buffer level applicable to the subsidiary under section 3G".

(3) Schedule 4D, section 3(1A)(b)(i)—

Repeal

"sections 3A and"

Substitute

"section".

(4) Schedule 4D, section 3(1A)(b)(ii)—

Repeal

"2.5%"

Substitute

"the buffer level applicable to the institution under section 3G".

(5) Schedule 4D, section 3(1B)(a)—

Repeal

"sections 3A and"

Substitute

"section".

(6) Schedule 4D, section 3(1B)(b)—

Repeal

"2.5%"

Substitute

"the buffer level applicable to the institution under section 3G".

(7) Schedule 4D, section 4(1A)(a)(i)—

Repeal

"sections 3A and"

Substitute

"section".

(8) Schedule 4D, section 4(1A)(a)(ii)—

Repeal

"2.5%"

Substitute

"the buffer level applicable to the subsidiary under section 3G".

(9) Schedule 4D, section 4(1A)(b)(i)—

Repeal

"sections 3A and"

Substitute

"section".

(10) Schedule 4D, section 4(1A)(b)(ii)—

Repeal

"2.5%"

Substitute

"the buffer level applicable to the institution under section 3G".

(11) Schedule 4D, section 4(1B)(a)—

Repeal

"sections 3A and"

Substitute

"section".

(12) Schedule 4D, section 4(1B)(b)—

Repeal

"2.5%"

Substitute

"the buffer level applicable to the institution under section 3G".

(13) Schedule 4D, section 5(1A)(a)(i)—

Repeal

"sections 3A and"

Substitute

"section".

(14) Schedule 4D, section 5(1A)(a)(ii)—

Repeal

"2.5%"

Substitute

"the buffer level applicable to the subsidiary under section 3G".

(15) Schedule 4D, section 5(1A)(b)(i)—

Repeal

"sections 3A and"

Substitute

"section".

(16) Schedule 4D, section 5(1A)(b)(ii)—

Repeal

"2.5%"

Substitute

"the buffer level applicable to the institution under section 3G".

(17) Schedule 4D, section 5(1B)(a)—

Repeal

"sections 3A and"

Substitute

"section".

(18) Schedule 4D, section 5(1B)(b)—

Repeal

"2.5%"

Substitute

"the buffer level applicable to the institution under section 3G".

19. Schedule 4H repealed (transitional arrangements in relation to Banking (Capital) (Amendment) Rules 2012 (L.N. 156 of 2012))

Schedule 4H—

Repeal the Schedule.