6. Authorized institution may apply for approval to use BSC approach to calculate its credit risk for non-securitization exposures

(1) An authorized institution may apply to the Monetary Authority for approval to use the BSC approach to calculate its credit risk for non-securitization exposures.

(2) Subject to subsection (3), the Monetary Authority shall determine an application under subsection (1) from an authorized institution by—

(*a*) granting approval to the institution to use the BSC approach to calculate its credit risk for non-securitization exposures; or

(*b*) refusing to grant the approval.

(3) Without prejudice to the generality of subsection (2)(*b*), the Monetary Authority shall refuse to grant approval to an authorized institution to use the BSC approach to calculate its credit risk for non-securitization exposures if any one or more of the requirements specified in section 7(*a*) or (*b*) are not satisfied with respect to the institution.

(4) Where an authorized institution is granted an approval under subsection (2)(*a*) to use the BSC approach on the ground specified in section 7(*b*)—

(*a*) if the institution has obtained the prior consent of the Monetary Authority, the institution may, before it uses the IRB approach to calculate its credit risk for non-securitization exposures, use a combination of the STC approach and BSC approach to calculate its credit risk for non-securitization exposures during the transitional period; and

(*b*) subject to section 10(5)(*a*), the institution shall, not later than the expiration of the transitional period—

(i) use the STC approach to calculate its credit risk for non-securitization exposures to which an exemption under section 12(2)(*a*) relates;

(ii) use the IRB approach to calculate its credit risk for all other non-securitization exposures.

7. Minimum requirements to be satisfied for approval under section 6(2)(*a*) to use BSC approach

An authorized institution which makes an application under section 6(1) to use the BSC approach shall demonstrate to the satisfaction of the Monetary Authority—

(*a*) that—

(i) at the end of the institution's financial year immediately preceding the date of the application, the institution and its consolidation group, if any, each had total assets, before deducting any specific provisions or collective provisions, of not more than $10 billion; and

(ii) there is no cause to believe that the use by the institution of the BSC approach to calculate its credit risk for non-securitization exposures would not adequately identify, assess and reflect the credit risk of the institution's non-securitization exposures taking into account the nature of the institution's business; or

(*b*) that—

(i) the institution has an implementation plan for the use of the IRB approach to calculate its credit risk for non-securitization exposures which, in form and substance, is adequate for that purpose; and

(ii) the institution is reasonably likely to satisfy, not later than the end of the transitional period, the requirements specified in Schedule 2 applicable to and in relation to an authorized institution seeking to use the IRB approach to calculate its credit risk for non-securitization exposures.

8. Authorized institution may apply for approval to use IRB approach to calculate its credit risk for non-securitization exposures

(1) An authorized institution may apply to the Monetary Authority for approval to use the IRB approach to calculate its credit risk for non-securitization exposures.

(2) Subject to subsection (3) and section 9, the Monetary Authority shall determine an application under subsection (1) from an authorized institution by—

(*a*) granting approval to the institution to use the IRB approach to calculate its credit risk for non-securitization exposures; or

(*b*) refusing to grant the approval.

(3) Without prejudice to the generality of subsection (2)(*b*), the Monetary Authority shall refuse to grant approval to an authorized institution to use the IRB approach to calculate its credit risk for non-securitization exposures if any one or more of the requirements specified in Schedule 2 applicable to or in relation to the institution are not satisfied with respect to the institution.

(4) Where an authorized institution is granted an approval under subsection (2)(*a*) to use the IRB approach to calculate its credit risk for non-securitization exposures—

(*a*) subject to sections 10(5)(*a*) and 12, the institution shall not, except with the prior consent of the Monetary Authority, use any approach other than the IRB approach to calculate its credit risk for non-securitization exposures; and

(*b*) the institution shall not, without the prior consent of the Monetary Authority, make any significant change to any rating system which is the subject of the approval.

9. Circumstances in which Monetary Authority shall take into account assessment outside Hong Kong of rating system used by authorized institution

(1) Where—

(*a*) an authorized institution uses a rating system which has been used by a bank incorporated outside Hong Kong to calculate the institution's credit risk for non-securitization exposures; and

(*b*) the bank is a member of a group of companies of which the institution is also a member,

the Monetary Authority shall, for the purposes of Schedule 2, take into account, insofar as is practicable and reasonable in all the circumstances of the case—

(*c*) subject to subsection (2), the assessment of the relevant banking supervisory authority of the bank as to the accuracy, verifiability, internal consistency and integrity of the rating system; and

(*d*) the appropriateness of the rating system for the purposes of assessing the credit risk characteristics of the institution's exposures.

(2) The Monetary Authority shall take into account the assessment referred to in subsection (1)(*c*) if, and only if, the Monetary Authority is satisfied that the capital adequacy standards adopted by the relevant banking supervisory authority for assessing credit risk under the IRB approach are not materially different from those set out in Part 6 and Schedule 2.

10. Measures which may be taken by Monetary Authority if authorized institution using BSC approach or IRB approach no longer satisfies specified requirements

(1) Where—

(*a*) an authorized institution uses the BSC approach to calculate its credit risk for non-securitization exposures; and

(*b*) the Monetary Authority is satisfied that, if the institution were to make a fresh application under section 6(1) for approval to use the BSC approach to calculate its credit risk for non-securitization exposures, the approval would be refused by virtue of section 6(3),

the Monetary Authority may, by notice in writing given to the institution, require the institution to use the STC approach to calculate its credit risk for non-securitization exposures instead of the BSC approach.

(2) A notice given to an authorized institution under subsection (1) may require the institution to use the STC approach to calculate its credit risk for non-securitization exposures in respect of all of its non-securitization exposures, or such parts of its non-securitization exposures as specified in the notice, beginning on such date, or the occurrence of such event, as specified in the notice.

(3) An authorized institution shall comply with the requirements of a notice given to it under subsection (1).

(4) Where—

(*a*) an authorized institution uses the IRB approach to calculate its credit risk for non-securitization exposures; and

(*b*) the Monetary Authority is satisfied that, if the institution were to make a fresh application under section 8(1) for approval to use the IRB approach to calculate its credit risk for non-securitization exposures, the approval would be refused by virtue of section 8(3) (but, insofar as Schedule 2 is concerned, only section 1 of that Schedule shall be taken into account),

the Monetary Authority may take one or more of the measures set out in subsection (5).

(5) The measures referred to in subsection (4) are that—

(*a*) the Monetary Authority may, by notice in writing given to the institution, require the institution to use the STC approach to calculate its credit risk for non-securitization exposures instead of the IRB approach in respect of all of its non-securitization exposures, or such parts of its non-securitization exposures as specified in the notice, beginning on such date, or the occurrence of such event, as specified in the notice;

(*b*) the Monetary Authority may, by notice in writing given to the institution, require the institution to—

(i) submit to the Monetary Authority a plan, within such period (being a period which is reasonable in all the circumstances of the case) as specified in the notice, which satisfies the Monetary Authority that, if it were implemented by the institution, the institution would cease to fall within subsection (4)(*b*) within a period which is reasonable in all the circumstances of the case; and

(ii) implement the plan;

(*c*) the Monetary Authority may, by notice in writing given to the institution, advise the institution that the Monetary Authority is considering exercising the Monetary Authority's power under section 101 of the Ordinance to vary the capital adequacy ratio of the institution by increasing it;

(*d*) the Monetary Authority may, by notice in writing given to the institution, require the institution to be subject to a capital floor (within the meaning of section 139(1)) for such period, or until the occurrence of such event, as specified in the notice (for which purpose section 226 applies to the calculation of the capital floor and the Monetary Authority may specify in the notice an adjustment factor for the calculation); and

(*e*) the Monetary Authority may, by notice in writing given to the institution, require the institution to reduce its credit exposures in such manner, or adopt such measures, as specified in the notice which, in the opinion of the Monetary Authority, will cause the institution to cease to fall within subsection (4)(*b*) within a period which is reasonable in all the circumstances of the case, or will otherwise mitigate the effect of the institution falling within that subsection.

(6) An authorized institution shall comply with the requirements of a notice given to it under subsection (5)(*a*), (*b*), (*d*) or (*e*).

(7) For the avoidance of doubt, it is hereby declared that—

(*a*) the requirements specified in Schedule 2 are also applicable to and in relation to an authorized institution using the IRB approach to calculate its credit risk in respect of the use by the institution of a rating system to which a significant change referred to in section 8(4)(*b*) relates (whether or not the institution has, in respect of that change, been given the prior consent referred to in section 8(4)(*b*)), and subsection (4)(*b*) and the other provisions of this section apply to the institution accordingly; and

(*b*) subsection (5)(*c*) does not operate to prejudice the generality of the circumstances in respect of which the Monetary Authority may exercise the power under section 101 of the Ordinance in the case of an authorized institution to which that subsection applies.

Division 3—Specific requirements relating to use of IRB approach

11. Minimum IRB coverage ratio

(1) Subject to section 12, an authorized institution which uses the IRB approach to calculate its credit risk for non-securitization exposures shall have—

(*a*) subject to paragraph (*b*), an IRB coverage ratio of not less than 85%, or not less than such other percentage as agreed in writing between the institution and the Monetary Authority, on a solo basis, solo-consolidated basis or consolidated basis as required pursuant to Division 7;

(*b*) subject to subsection (2), if section 14(4) is applicable to the institution, an IRB coverage ratio of not less than 75%, or not less than such other percentage as agreed in writing between the institution and the Monetary Authority, on a solo basis, solo-consolidated basis or consolidated basis as required pursuant to Division 7;

(2) Where section 14(4) ceases to apply to an authorized institution, subsection (1)(*a*) applies to the institution.

(3) Subject to section 12, where an authorized institution uses the IRB approach to calculate its credit risk for an IRB class or an IRB subclass of retail exposures, the institution shall use the IRB approach to calculate its credit risk for all exposures which fall within that class or subclass, as the case may be.

(4) Where—

(*a*) an authorized institution uses the IRB approach to calculate its credit risk for non-securitization exposures; and

(*b*) an event (referred to in this subsection as "relevant event"), which could reasonably be construed as causing, or potentially causing, whether by itself or in conjunction with any other event, a failure by the institution to comply with subsection (1), occurs,

the institution shall, as soon as is practicable after the relevant event occurs, give notice in writing to the Monetary Authority of the relevant event.

12. Exemption for exposures

(1) An authorized institution which uses the IRB approach to calculate its credit risk for non-securitization exposures (referred to in this section as "relevant calculation") may apply to the Monetary Authority to have such of its non-securitization exposures as specified in the application exempted from inclusion in the relevant calculation.

(2) Subject to subsection (4), the Monetary Authority shall determine an application under subsection (1) from an authorized institution by—

(*a*) exempting from inclusion in the relevant calculation—

(i) the exposures in an IRB class (or, in the case of retail exposures, an IRB subclass) which are specified in the application; or

(ii) the exposures falling within a business unit which are specified in the application,

if the institution demonstrates to the satisfaction of the Monetary Authority that—

(iii) it is not practicable for the institution to include the exposures referred to in subparagraph (i) or (ii), as the case may be, in the relevant calculation; and

(iv) the exemption will not materially prejudice the calculation of the institution's regulatory capital for credit risk; or

(*b*) refusing to grant the exemption.

(3) An authorized institution to which an exemption under subsection (2)(*a*) is granted—

(*a*) subject to paragraph (*b*), shall use the STC approach to calculate its credit risk for non-securitization exposures to which the exemption relates; or

(*b*) may use, during the transitional period, the BSC approach to calculate its credit risk for non-securitization exposures to which the exemption relates if the institution has been granted approval under section 6(2)(*a*) to use the BSC approach to calculate its credit risk for non-securitization exposures on the ground specified in section 7(*b*).

(4) The Monetary Authority shall not grant an exemption under subsection (2)(*a*) to an authorized institution unless the institution demonstrates to the satisfaction of the Monetary Authority that, if the exemption were granted—

(*a*) the aggregate risk-weighted amount of—

(i) the non-securitization exposures to which the exemption would relate; and

(ii) the securitization exposures which would be subject to the STC(S) approach in consequence of the exemption,

would not cause the institution to fail to comply with the IRB coverage ratio applicable to the institution under section 11(1);

(*b*) if subsection (2)(*a*)(i) is applicable—

(i) in the case of non-securitization exposures which are not equity exposures, the aggregate risk-weighted amount of the institution's exposures in an IRB class (or, in the case of retail exposures, an IRB subclass) to which the exemption would relate would not exceed 10% of the institution's risk-weighted amount for credit risk;

(ii) in the case of non-securitization exposures which are equity exposures—

(A) subject to sub-subparagraph (B), the average aggregate EAD over the past 12 months (being the 12 months immediately preceding the date on which the institution applies to the Monetary Authority for the exemption) of the institution's equity exposures to which the exemption would relate would not exceed 10% of the institution's capital base as determined in accordance with Part 3;

(B) if the institution's equity exposures consist of less than 10 individual holdings, the average aggregate EAD over the past 12 months (being the 12 months immediately preceding the date on which the institution applies to the Monetary Authority for the exemption) of the institution's equity exposures to which the exemption would relate would not exceed 5% of the institution's capital base as determined in accordance with Part 3.

(5) Where—

(*a*) an authorized institution is granted an exemption (referred to in this subsection as "existing exemption") under subsection (2)(*a*); and

(*b*) the institution is at any time thereafter satisfied that if it were to make a fresh application under subsection (1) for an exemption (referred to in this subsection as "new exemption") in respect of the exposures to which the existing exemption relates, the new exemption would be, or may be, refused by virtue of subsection (2) or (4),

the institution shall, as soon as is practicable after it is so satisfied, give notice in writing to the Monetary Authority of the case.

13. Revocation of exemption under section 12

(1) Where—

(*a*) an authorized institution uses the STC approach or BSC approach to calculate its credit risk for certain non-securitization exposures to which an exemption under section 12(2)(*a*) relates; and

(*b*) the Monetary Authority is satisfied that, if the institution were to make a fresh application under section 12(1) for an exemption in respect of those non-securitization exposures, the exemption would be refused by virtue of section 12(2) or (4),

the Monetary Authority may take one or more of the measures set out in subsection (2).

(2) The measures referred to in subsection (1) are that—

(*a*) if the fresh application referred to in subsection (1)(*b*) would be refused by virtue of section 12(2), the Monetary Authority may, by notice in writing given to the institution, require the institution to—

(i) submit to the Monetary Authority a plan, within such period (being a period which is reasonable in all the circumstances of the case) as specified in the notice, which satisfies the Monetary Authority that, if it were implemented by the institution, the institution would be able to use the IRB approach to calculate its credit risk for those non-securitization exposures within a period which is reasonable in all the circumstances of the case; and

(ii) implement the plan;

(*b*) if the fresh application referred to in subsection (1)(*b*) would be refused by virtue of section 12(4), the Monetary Authority may, by notice in writing given to the institution, require the institution to—

(i) submit to the Monetary Authority a plan, within such period (being a period which is reasonable in all the circumstances of the case) as specified in the notice, which satisfies the Monetary Authority that, if it were implemented by the institution within a period which is reasonable in all the circumstances of the case, the fresh application would then not be refused; and

(ii) implement the plan; and

(*c*) the Monetary Authority may, by notice in writing given to the institution, revoke the exemption on such date, or the occurrence of such event, as specified in the notice.

(3) An authorized institution shall comply with the requirements of a notice given to it under subsection (2)(*a*) or (*b*).

(4) For the avoidance of doubt, it is hereby declared that an authorized institution's compliance with a requirement referred to in subsection (2)(*a*) or (*b*) does not prejudice the generality of the Monetary Authority's power under subsection (2)(*c*).

14. Transitional arrangements

(1) Subject to subsection (2), an authorized institution which uses the IRB approach to calculate its credit risk for non-securitization exposures during the period from 1 January 2007 to 31 December 2011, both days inclusive, may comply with this section instead of Part 6 to the extent that this section is inconsistent with the provisions of that Part.

(2) Subject to subsection (3), for the purposes of subsection (1), an authorized institution may, in the case of an IRB class specified in column 1 of Table 1, replace the minimum data requirement specified in column 2 of that Table opposite that class with the transitional data requirement specified in column 3 of that Table opposite that minimum data requirement.

TABLE 1

TRANSITIONAL DATA REQUIREMENTS

IRB class	Minimum data requirement	Transitional data requirement
Observation period for the PD under— (*a*) the foundation IRB approach of corporate, sovereign and bank exposures; and (*b*) the PD/LGD approach of equity exposures	Not less than 5 years as set out in section 159(1)(*d*)(ii) for corporate, sovereign and bank exposures and as set out in section 194(1) for equity exposures	2 years during the transitional period; 3 years for 2010; 4 years for 2011

IRB class	Minimum data requirement	Transitional data requirement
Observation period for the PD, LGD and EAD of retail exposures	Not less than 5 years as set out in section 177(1)(*e*)(ii) for PD, as set out in section 178(1)(*g*)(ii) for LGD and as set out in section 180(3)(*b*)(ii) for EAD	2 years during the transitional period; 3 years for 2010; 4 years for 2011

(3) An authorized institution which applies subsection (2) shall demonstrate to the satisfaction of the Monetary Authority that—

(*a*) the institution is prudent in assigning exposures to obligor grades, facility grades, or pools of exposures, as the case requires;

(*b*) the institution is prudent in its default and loss estimates; and

(*c*) the rating system used by the institution fully enables it to comply with paragraphs (*a*) and (*b*).

(4) Subject to subsection (5), an authorized institution may, with the prior consent of the Monetary Authority, during the transitional period use the IRB approach to calculate its credit risk for non-securitization exposures in phases (referred to in this section as "phased rollout").

(5) The Monetary Authority shall not consent to a phased rollout by an authorized institution unless the institution demonstrates to the satisfaction of the Monetary Authority that the institution has, and will implement, a plan for the phased rollout—

(*a*) which is realistically achievable having regard to the nature of the institution's business; and

(*b*) which has been developed in good faith for the purposes of introducing a method of calculating the institution's regulatory capital and not for the purposes of regulatory capital arbitrage.

Division 4—Prescribed approaches to calculation of credit risk for securitization exposures

15. Authorized institution shall only use STC(S) approach or IRB(S) approach to calculate its credit risk for securitization exposures

(1) Subject to subsections (2) and (3) and section 16, where—

(*a*) an authorized institution holds a securitization exposure in a securitization transaction; and

(*b*) the underlying exposures in the securitization transaction are of a class which would fall within section 54, 108 or 142 (referred to in this section as "relevant class") if the institution were to classify those underlying exposures as if they were not securitized,

the institution shall—

(*c*) use the STC(S) approach to calculate its credit risk for the securitization exposure if it would use the STC approach or BSC approach to calculate its credit risk for the relevant class;

(*d*) use the IRB(S) approach to calculate its credit risk for the securitization exposure if it would use the IRB approach to calculate its credit risk for the relevant class.

(2) Where—

(*a*) an authorized institution holds a securitization exposure in a securitization transaction;

(*b*) the underlying exposures in the securitization transaction are of 2 or more relevant classes; and

(*c*) the institution would use any combination of the STC approach, BSC approach and IRB approach to calculate its credit risk for the relevant classes,

the institution shall, subject to subsection (4), after consultation with the Monetary Authority and unless otherwise directed by the Monetary Authority—

(*d*) use the STC(S) approach to calculate its credit risk for the securitization exposure if—

(i) the STC approach or BSC approach would be used to calculate its credit risk for the majority of the underlying exposures if they were classified into the relevant classes; or

(ii) no single approach would be used to calculate its credit risk for the majority of the underlying exposures if they were classified into the relevant classes;

(*e*) use the IRB(S) approach to calculate its credit risk for the securitization exposure if the IRB approach would be used to calculate its credit risk for the majority of the underlying exposures if they were classified into the relevant classes.

(3) Where an authorized institution which holds a securitization exposure in a securitization transaction uses the IRB approach to calculate its credit risk for non-securitization exposures, and either—

(*a*) the IRB approach has no specific calculation method for the relevant class for the underlying exposures in the securitization transaction; or

(*b*) the institution does not have the approval under section 8(2)(*a*) to use the IRB approach to calculate its credit risk for the relevant class,

the institution shall use the STC(S) approach to calculate its credit risk for the securitization exposure.

(4) For the purposes of subsection (2), an authorized institution shall determine the majority of the underlying exposures referred to in that subsection by—

(*a*) calculating an amount for each relevant class by—

(i) if the institution would use the STC approach or BSC approach in respect of such a class, aggregating the principal amount of the on-balance sheet underlying exposures and the credit equivalent amount of the off-balance sheet underlying exposures which would be classified within that class pursuant to subsection (1)(*b*); or

(ii) if the institution would use the IRB approach in respect of such a class, aggregating the EAD of the on-balance sheet and off-balance sheet underlying exposures which would be classified within that class pursuant to subsection (1)(*b*);

(*b*) aggregating the amounts calculated under paragraph (*a*)(i) and aggregating the amounts calculated under paragraph (*a*)(ii); and

(*c*) taking, as such majority, the larger of the 2 amounts resulting from the aggregation under paragraph (*b*).

(5) In this section, the following expressions have the respective meanings assigned to them by section 227(1)—

(*a*) credit equivalent amount; and

(*b*) principal amount.

16. Authorized institution using IRB(S) approach shall use ratings-based method or supervisory formula method to calculate its credit risk for securitization exposures

An authorized institution which uses the IRB(S) approach to calculate its credit risk for securitization exposures—

(*a*) shall use the ratings-based method to calculate the risk-weighted amount of its rated securitization exposures;

(*b*) subject to paragraph (*c*), shall, with the prior consent of the Monetary Authority, use the supervisory formula method to calculate the capital charge factor for its unrated securitization exposures;

(*c*) subject to paragraph (*d*), shall deduct from its core capital and supplementary capital any unrated securitization exposures in respect of which the supervisory formula method cannot be used because the institution lacks the consent referred to in paragraph (*b*);

(*d*) may, with the prior consent of the Monetary Authority, apply the method specified in section 277(3) to calculate the risk-weighted amount of—

(i) liquidity facilities provided by the institution which fall within section 252(1) and are unrated; and

(ii) servicer cash advance facilities provided by the institution which fall within section 252(2), are unrated and satisfy the requirements set out in section 252(1) as if the facilities were liquidity facilities provided by the institution.

Division 5—Prescribed approaches to calculation of market risk

17. Authorized institution shall only use STM approach, IMM approach or approach used by parent bank to calculate its market risk

(1) An authorized institution (other than an authorized institution exempted under section 22(1))—

(*a*) subject to paragraphs (*b*) and (*c*), shall use the STM approach to calculate its market risk;

(*b*) subject to section 18(5), may use the IMM approach to calculate its market risk only if it has the approval to do so under section 18(2)(*a*);

(*c*) may use the approach used by the parent bank of the institution to calculate its market risk only if it has the approval to do so under section 20(2)(*a*).

(2) Subsection (1) does not prevent an authorized institution from using any combination of the STM approach, the IMM approach and the approach used by its parent bank to calculate its market risk if that combination is expressly permitted by, and in accordance with, another section of these Rules.

18. Authorized institution may apply for approval to use IMM approach to calculate its market risk

(1) An authorized institution may apply to the Monetary Authority for approval to use the IMM approach to calculate its market risk.

(2) Subject to subsections (3) and (5), the Monetary Authority shall determine an application under subsection (1) from an authorized institution by—

(*a*) granting approval to the institution to use the IMM approach to calculate its market risk; or

(*b*) refusing to grant the approval.

(3) Without prejudice to the generality of subsection (2)(*b*), the Monetary Authority shall refuse to grant approval to an authorized institution to use the IMM approach to calculate its market risk if any one or more of the requirements specified in Schedule 3 applicable to or in relation to the institution are not satisfied with respect to the institution.

(4) Where an authorized institution uses the IMM approach to calculate its market risk, the institution shall not, without the prior consent of the Monetary Authority, make any significant change to any internal model which is the subject of the approval granted to the institution under subsection (2)(*a*).

(5) The Monetary Authority may grant an approval under subsection (2)(*a*) to an authorized institution to use the IMM approach to calculate its market risk in respect of general market risk or specific risk, or both, for such risk categories, or such local or overseas business of the institution, as specified in the approval, beginning on such date, or the occurrence of such event, as specified in the approval.

(6) Subject to section 19(2)(*a*), where an authorized institution is granted an approval under subsection (2)(*a*) and uses the IMM approach to calculate its market risk in respect of general market risk or specific risk, or both, for its positions in all or any risk categories or business, it shall not, in respect of those positions, use the STM approach to calculate its market risk except with the prior consent of the Monetary Authority.

(7) For the avoidance of doubt, it is hereby declared that an authorized institution which has an approval under subsection (5) shall use the STM approach to calculate its market risk for the risk categories or business which are or is not the subject of the approval.

19. Measures which may be taken by Monetary Authority if authorized institution using IMM approach no longer satisfies specified requirements

(1) Where—

(*a*) an authorized institution uses the IMM approach to calculate its market risk; and

(*b*) the Monetary Authority is satisfied that, if the institution were to make a fresh application under section 18(1) for approval to use the IMM approach to calculate its market risk, the approval would be refused by virtue of section 18(3),

the Monetary Authority may take one or more of the measures set out in subsection (2).

(2) The measures referred to in subsection (1) are that—

(*a*) the Monetary Authority may, by notice in writing given to the institution, require the institution to use the STM approach instead of the IMM approach to calculate its market risk in respect of general market risk or specific risk, or both, for its positions in all risk categories or all of its business, or such risk categories or such part of its business as specified in the notice, beginning on such date, or the occurrence of such event, as specified in the notice;

(*b*) the Monetary Authority may, by notice in writing given to the institution, require the institution to—

(i) submit to the Monetary Authority a plan, within such period (being a period which is reasonable in all the circumstances of the case) as specified in the notice, which satisfies the Monetary Authority that, if it were implemented by the institution, the institution would cease to fall within subsection (1)(*b*) within a period which is reasonable in all the circumstances of the case; and

(ii) implement the plan;

(*c*) the Monetary Authority may, by notice in writing given to the institution, advise the institution that the Monetary Authority is considering exercising the Monetary Authority's power under section 101 of the Ordinance to vary the capital adequacy ratio of the institution by increasing it;

(*d*) the Monetary Authority may, by notice in writing given to the institution, require the institution to calculate its market risk capital charge by the use of such higher multiplication factor as specified in the notice in accordance with section 319(3); and

(*e*) the Monetary Authority may, by notice in writing given to the institution, require the institution to reduce its market risk exposures in such manner, or to adopt such measures, specified in the notice which, in the opinion of the Monetary Authority, will cause the institution to cease to fall within subsection (1)(*b*) within a period which is reasonable in all the circumstances of the case, or will otherwise mitigate the effect of the institution falling within that subsection.

(3) An authorized institution shall comply with the requirements of a notice given to it under subsection (2)(*a*), (*b*), (*d*) or (*e*).

(4) For the avoidance of doubt, it is hereby declared that—

(*a*) the requirements specified in Schedule 3 are also applicable to and in relation to an authorized institution using the IMM approach to calculate its market risk in respect of the use by the institution of an internal model to which a significant change referred to in section 18(4) relates (whether or not the institution has, in respect of that change, been given the prior consent referred to in section 18(4)), and subsection (1)(*b*) and the other provisions of this section apply to the institution accordingly; and

(*b*) subsection (2)(*c*) does not operate to prejudice the generality of the circumstances in respect of which the Monetary Authority may exercise the power under section 101 of the Ordinance in the case of an authorized institution to which that subsection applies.

20. Authorized institution may apply for approval to use approach used by parent bank to calculate its market risk

(1) An authorized institution may apply to the Monetary Authority for approval to use the approach used by its parent bank to calculate its market risk.

(2) Subject to subsection (3), the Monetary Authority shall determine an application under subsection (1) from an authorized institution by—

(*a*) granting approval to the institution to use the approach used by its parent bank to calculate its market risk; or

(*b*) refusing to grant the approval.

(3) Without prejudice to the generality of subsection (2)(*b*), the Monetary Authority shall refuse to grant approval to an authorized institution to use the approach used by its parent bank to calculate its market risk unless—

(*a*) the institution demonstrates to the satisfaction of the Monetary Authority that use of that approach will not materially prejudice the calculation of the institution's regulatory capital for market risk; and

(*b*) in the opinion of the Monetary Authority, the parent bank is adequately supervised by the relevant banking supervisory authority in respect of the calculation of market risk.

21. Measures which may be taken by Monetary Authority if authorized institution using approach used by parent bank no longer satisfies specified requirements

(1) Where—

(*a*) an authorized institution uses the approach used by its parent bank to calculate its market risk; and

(*b*) the Monetary Authority is satisfied that, if the institution were to make a fresh application under section 20(1) for approval to use that approach to calculate its market risk, the approval would be refused—

(i) by virtue of section 20(3); or

(ii) because the entity which was the parent bank of the institution has ceased to be the parent bank of the institution,

the Monetary Authority may, by notice in writing given to the institution, revoke the approval concerned under section 20(2)(*a*) beginning on such date, or the occurrence of such event, as specified in the notice.

(2) Immediately upon the revocation under subsection (1) of an approval under section 20(2)(*a*) granted to an authorized institution, section 17(1)(*a*) and (*b*) applies to the institution.

22. Exemption from section 17

(1) The Monetary Authority may, by notice in writing given to an authorized institution (other than an authorized institution which uses the IRB approach to calculate its credit risk), exempt the institution from section 17 if the institution demonstrates to the satisfaction of the Monetary Authority that—

(*a*) the institution's market risk positions—

(i) never exceed 5% of its total on-balance sheet and off-balance sheet exposures; or

(ii) only sporadically exceed 5%, and never exceed 6%, of its total on-balance sheet and off-balance sheet exposures; and

(*b*) the institution's market risk positions—

(i) never exceed $50 million; or

(ii) only sporadically exceed $50 million and never exceed $60 million.

(2) For the purposes of subsection (1)—

(*a*) the amount of an authorized institution's market risk positions is calculated by aggregating—

(i) the institution's total gross (long plus short) positions in debt securities and debt-related derivative contracts;

(ii) the arithmetic mean of the institution's total long and total short positions in interest rate derivative contracts;

(iii) the institution's total gross (long plus short) positions in equities and equity-related derivative contracts;

(iv) the institution's total net open position in foreign exchange exposures as derived in section 296; and

(v) the institution's total gross (long plus short) positions in commodities and commodity-related derivative contracts; and

(*b*) an authorized institution's total on-balance sheet and off-balance sheet exposures are derived by—

(i) aggregating the institution's total liabilities, total assets less specific and collective provisions, and the principal amount (within the meaning of section 51) of all of the institution's off-balance sheet exposures; and

(ii) deducting therefrom the institution's paid-up capital, reserves (including current year's profit or loss) and perpetual or term subordinated debt.

(3) The date on which an authorized institution's market risk positions are assessed for the purposes of subsection (1) shall be—

(*a*) subject to paragraph (*b*), the calendar quarter end date of each of the 4 consecutive calendar quarters of the same calendar year; or

(*b*) the calendar quarter end date of such consecutive calendar quarters, being not more than 4 consecutive calendar quarters, as the Monetary Authority specifies in writing given to the institution.

(4) Where an authorized institution is exempted under this section from section 17, the institution—

(*a*) shall not, except with the prior consent of the Monetary Authority, include market risk in the calculation of its capital adequacy ratio;

(*b*) shall give notice in writing to the Monetary Authority of—

(i) an increase in its market risk positions which causes, or could reasonably be construed as potentially causing, whether by itself or in conjunction with any other event, the institution to cease to fall within subsection (1)(*a*) or (*b*); or

(ii) an intention to increase its market risk positions which will cause, or could reasonably be construed as potentially causing, whether by itself or in conjunction with any other event, the institution to cease to fall within subsection (1)(*a*) or (*b*);

(*c*) shall apply Part 4, 5 or 7, as the case requires, to calculate the credit risk for the institution's market risk positions except for its total net open position in foreign exchange exposures as derived in section 296.

(5) In this section, the following expressions have the respective meanings assigned to them by section 281—

(*a*) debt security; and

(*b*) equity.

23. Revocation of exemption under section 22

(1) Where—

(*a*) an authorized institution is exempted under section 22(1) from section 17; and

(*b*) the Monetary Authority is satisfied that, if the institution were not already so exempted, the exemption would be refused by virtue of the institution failing to satisfy the Monetary Authority as specified in section 22(1),

the Monetary Authority may, by notice in writing given to the institution, revoke the exemption granted under section 22(1), beginning on such date, or the occurrence of such event, as specified in the notice.

(2) Section 17 applies to an authorized institution immediately upon the revocation under this section of an exemption under section 22(1).

Division 6—Prescribed approaches to calculation of operational risk

24. Authorized institution shall only use BIA approach, STO approach or ASA approach to calculate its operational risk

(1) An authorized institution—

(*a*) subject to paragraphs (*b*) and (*c*), shall use the BIA approach to calculate its operational risk;

(*b*) subject to section 26, may use the STO approach to calculate its operational risk only if it has the approval to do so under section 25(2)(*a*);

(*c*) subject to section 26, may use the ASA approach to calculate its operational risk only if it has the approval to do so under section 25(2)(*a*).

(2) Subsection (1) does not prevent an authorized institution from using any combination of the BIA approach, STO approach and ASA approach to calculate its operational risk if that combination is expressly permitted by, and in accordance with, another section of these Rules.

25. Authorized institution may apply for approval to use STO approach or ASA approach to calculate its operational risk

(1) An authorized institution may apply to the Monetary Authority for approval to use the STO approach or ASA approach to calculate its operational risk.

(2) Subject to subsections (3) and (4), the Monetary Authority shall determine an application under subsection (1) from an authorized institution by—

(*a*) granting approval to the institution to use the STO approach or ASA approach to calculate its operational risk; or

(*b*) refusing to grant the approval.

(3) Without prejudice to the generality of subsection (2)(*b*), the Monetary Authority shall refuse to grant approval to an authorized institution to use the STO approach or ASA approach to calculate its operational risk if any one or more of the requirements specified in Schedule 4 applicable to or in relation to the institution are not satisfied with respect to the institution.

(4) The Monetary Authority shall not grant approval to an authorized institution to use the ASA approach to calculate its operational risk unless the institution demonstrates to the satisfaction of the Monetary Authority that the use of the ASA approach would provide a more accurate assessment of the degree of operational risk to which the institution is exposed than would the use of the STO approach.

26. Measures which may be taken by Monetary Authority if authorized institution using STO approach or ASA approach no longer satisfies specified requirements

(1) Where—

(*a*) an authorized institution uses the STO approach or ASA approach to calculate its operational risk; and

(*b*) the Monetary Authority is satisfied that, if the institution were to make a fresh application under section 25(1) for approval to use the STO approach or ASA approach to calculate its operational risk, the approval would be refused by virtue of section 25(3),

the Monetary Authority may, by notice in writing given to the institution, require the institution to use the BIA approach to calculate its operational risk instead of the STO approach or ASA approach, as the case may be.

(2) A notice given to an authorized institution under subsection (1) may require the institution to use the BIA approach to calculate its operational risk in respect of all of its business, or such parts of its business as specified in the notice, during the period beginning on such date, or the occurrence of such event, as specified in the notice and ending on such date, or the occurrence of such event, as specified in the notice.

(3) An authorized institution shall comply with the requirements of a notice given to it under subsection (1).

Division 7—Calculation of capital adequacy ratio: solo basis, solo-consolidated basis and consolidated basis

27. Authorized institution shall calculate its capital adequacy ratio on solo basis, solo-consolidated basis or consolidated basis

(1) An authorized institution shall—

(*a*) calculate its capital adequacy ratio on a solo basis or, if it has the approval to do so under section 28(2)(*a*), calculate its capital adequacy ratio on a solo-consolidated basis; and

(*b*) subject to section 33, calculate its capital adequacy ratio on a consolidated basis.

(2) Subject to section 33, the Monetary Authority may, in a section 98(2) requirement, require an authorized institution to calculate its capital adequacy ratio on a consolidated basis in respect of a subsidiary of the institution (other than a subsidiary which is an insurance firm or securities firm) where—

(*a*) more than 50% of the total assets or total income of the subsidiary relate to or arise from the carrying out of one or more than one relevant financial activity; or

(*b*) the Monetary Authority is satisfied that, after taking into account the nature of the business undertaken by the subsidiary, the institution should calculate its capital adequacy ratio on a consolidated basis in respect of that subsidiary if a relevant risk of the institution is to be adequately identified and assessed.

(3) In subsection (2)—

"relevant financial activity" (有關財務活動), in relation to a subsidiary of an authorized institution, means—

(*a*) an activity which is ancillary to a principal activity of the institution, including—
(i) owning and managing the institution's property; and
(ii) performing information technology functions for the institution;
(*b*) lending, including—
(i) the provision of consumer or mortgage credit;
(ii) factoring;
(iii) forfaiting; and
(iv) the provision of guarantees and other financial commitments;
(*c*) financial leasing;
(*d*) money transmission services;
(*e*) issuing and administering a means of payment, including—
(i) credit cards;
(ii) travellers' cheques; and
(iii) bank drafts;
(*f*) trading for the subsidiary's own account, or for accounts of the subsidiary's customers, in—
(i) money market instruments;
(ii) foreign exchange;
(iii) financial instruments which are traded on an exchange;
(iv) OTC derivative transactions; or
(v) transferable securities;
(*g*) participating in securities issues, including the provision of services relating to the issues;
(*h*) the provision of—
(i) advice to undertakings on capital structure or industrial strategy, including any matter relating to capital structure or industrial strategy; or
(ii) advice and services relating to mergers and the purchase of undertakings;
(*i*) money broking; or
(*j*) portfolio management and the provision of advice in relation to portfolio management.

(4) An authorized institution which calculates its capital adequacy ratio on a consolidated basis shall give notice in writing to the Monetary Authority of any of the following matters as soon as is practicable after the institution is aware of the matter or ought to be aware of the matter—
(*a*) a member of the institution's consolidation group ceasing to be a subsidiary of the institution;
(*b*) a subsidiary of the institution becoming a member of its consolidation group;
(*c*) the principal activities of a subsidiary referred to in paragraph (*b*);

(*d*) any significant change to the principal activities of the institution or any of its subsidiaries (including a subsidiary referred to in paragraph (*b*)).

28. Authorized institution may apply for approval to calculate its capital adequacy ratio on solo-consolidated basis

(1) An authorized institution may apply to the Monetary Authority for approval to calculate its capital adequacy ratio on a solo-consolidated basis instead of a solo basis in respect of such of its subsidiaries which are members of its consolidation group as specified in the application.

(2) Subject to subsection (3), the Monetary Authority shall determine an application under subsection (1) from an authorized institution by—

(*a*) granting approval to the institution to calculate its capital adequacy ratio on a solo-consolidated basis instead of a solo basis in respect of such subsidiaries of the institution as specified in the approval, and giving the institution a section 98(2) requirement to give effect to the approval; or

(*b*) refusing to grant the approval.

(3) Without prejudice to the generality of subsection (2)(*b*), the Monetary Authority shall refuse to grant approval to an authorized institution to calculate its capital adequacy ratio on a solo-consolidated basis instead of a solo basis in respect of a subsidiary of the institution unless the institution demonstrates to the satisfaction of the Monetary Authority that—

(*a*) the subsidiary is wholly owned by, and managed as if it were an integral part of, the institution;

(*b*) the subsidiary is wholly financed by the institution such that the subsidiary has no depositors or other external creditors except external creditors for—

(i) audit fees;

(ii) company secretarial services; and

(iii) sundry operating expenses; and

(*c*) there are no regulatory, legal or taxation constraints on the transfer of the subsidiary's capital to the institution.

(4) Where—

(*a*) an authorized institution has been granted an approval under subsection (2)(*a*); and

(*b*) an event (referred to in this subsection as "relevant event") which could reasonably be construed as causing, or potentially causing, whether by itself or in conjunction with any other event, a subsidiary of the institution to fall outside subsection (3)(*a*), (*b*) or (*c*), occurs,

the institution shall, as soon as is practicable after the relevant event occurs, give notice in writing to the Monetary Authority of the relevant event.

29. Solo basis for calculation of capital adequacy ratio

(1) An authorized institution shall in calculating its capital adequacy ratio on a solo basis—

(*a*) aggregate the institution's (including the institution's local branches' and overseas branches') risk-weighted amounts for—

(i) credit risk;

(ii) market risk; and

(iii) operational risk;

(*b*) deduct from the aggregate amount derived under paragraph (*a*)—

(i) that portion, as determined on a solo basis, of the total regulatory reserve for general banking risks and collective provisions of the institution apportioned to the STC approach or BSC approach, or both, and to the STC(S) approach, which is not included in the supplementary capital of the institution; and

(ii) that amount, if any, as determined on a solo basis, by which the net book value of the institution's reserves attributable to fair value gains arising from the revaluation of the institution's holdings of land and buildings referred to in section 42(1)(*a*)(i) is in excess of the net book value of those reserves as at the end of December 1998 or the relevant date (within the meaning of section 43(8)); and

(*c*) determine the institution's capital base, in accordance with Part 3, to reflect the fact that it is calculating its capital adequacy ratio on a solo basis.

(2) For the avoidance of doubt, it is hereby declared that—

(*a*) for the purposes of this section, an authorized institution shall risk-weight the exposures of an overseas branch of the institution in accordance with these Rules; and

(*b*) for the purposes of subsection (1)(*b*)(ii), if an authorized institution has approval under section 43(4)(*b*) to include the fair value gains on revaluation of land and buildings referred to in section 42(1)(*a*)(i) arising from a merger or acquisition, the net book value of reserves as at the end of December 1998 or the relevant date (within the meaning of section 43(8)) shall be deemed to include the fair value gains approved under section 43(4)(*b*).

30. Solo-consolidated basis for calculation of capital adequacy ratio

(1) Subject to subsection (2), an authorized institution shall in calculating its capital adequacy ratio on a solo-consolidated basis—

(*a*) aggregate the institution's (including the institution's local branches' and overseas branches') and its solo-consolidated subsidiaries' risk-weighted amounts for—

(i) credit risk;

(ii) market risk; and

(iii) operational risk;

(*b*) deduct from the aggregate amount derived under paragraph (*a*)—

(i) that portion, as determined on a solo-consolidated basis, of the total regulatory reserve for general banking risks and collective provisions of the institution and its solo-consolidated subsidiaries apportioned to the STC approach or BSC approach, or both, and to the STC(S) approach, which is not included in the supplementary capital of the institution and its solo-consolidated subsidiaries; and

(ii) that amount, if any, as determined on a solo-consolidated basis, by which the net book value of the institution's and its solo-consolidated subsidiaries' reserves attributable to fair value gains arising from the revaluation of the institution's and its solo-consolidated subsidiaries' holdings of land and buildings referred to in section 42(1)(*a*)(i) is in excess of the net book value of those reserves as at the end of December 1998 or the relevant date (within the meaning of section 43(8)); and

(*c*) determine the capital base of the institution and its solo-consolidated subsidiaries, in accordance with Part 3, to reflect the fact that it is calculating its capital adequacy ratio on a solo-consolidated basis.

(2) For the avoidance of doubt, it is hereby declared that, for the purposes of this section, an authorized institution shall risk-weight the exposures of an overseas branch of the institution in accordance with these Rules.

(3) An authorized institution which calculates its capital adequacy ratio on a solo-consolidated basis shall ensure that, in calculating that ratio, the risk-weighting of a relevant risk does not include inter-company balances with, and transactions between, the institution and its solo-consolidated subsidiaries.

(4) For the purposes of subsection (1)(*b*)(ii), if an authorized institution has approval under section 43(4)(*b*) to include the fair value gains on revaluation of land and buildings referred to in section 42(1)(*a*)(i) arising from a merger or acquisition, the net book value of reserves as at the end of December 1998 or the relevant date (within the meaning of section 43(8)) shall be deemed to include the fair value gains approved under section 43(4)(*b*).

31. Consolidated basis for calculation of capital adequacy ratio

(1) An authorized institution shall in calculating its capital adequacy ratio on a consolidated basis—

(*a*) aggregate the institution's consolidation group's (including the institution's local branches' and oversea branches') risk-weighted amounts for—

(i) credit risk;

(ii) market risk; and

(iii) operational risk;

(*b*) deduct from the aggregate amount derived under paragraph (*a*)—

(i) that portion, as determined on a consolidated basis, of the total regulatory reserve for general banking risks and collective provisions of the institution's consolidation group apportioned to the STC approach or BSC approach, or both, and to the STC(S) approach, which is not included in the supplementary capital of the institution's consolidation group; and

(ii) that amount, if any, as determined on a consolidated basis, by which the net book value of the institution's consolidation group's reserves attributable to fair value gains arising from the revaluation of the institution's consolidation group's holdings of land and buildings referred to in section 42(1)(*a*)(i) is in excess of the net book value of those reserves as at the end of December 1998 or the relevant date (within the meaning of section 43(8)); and

(*c*) determine the institution's consolidation group's capital base, in accordance with Part 3, to reflect the fact that it is calculating its capital adequacy ratio on a consolidated basis.

(2) It is hereby declared that, under the consolidated basis for the calculation of the capital adequacy ratio of an authorized institution, the institution shall ensure that—

(*a*) the risk-weighting of a relevant risk does not include the exposures of a subsidiary of the institution which is not a member of its consolidation group; and

(*b*) the risk-weighting of a relevant risk does not include inter-company balances with, and transactions between, members of its consolidation group.

(3) An authorized institution which calculates its capital adequacy ratio on a consolidated basis may, insofar as its market risk is concerned, offset market risk positions between members of its consolidation group if those market risk positions are monitored and managed on a group basis.

(4) For the avoidance of doubt, it is hereby declared that—

(*a*) for the purposes of this section, an authorized institution shall risk-weight the exposures of an overseas branch of the institution in accordance with these Rules; and

(*b*) for the purposes of subsection (1)(*b*)(ii), if an authorized institution has approval under section 43(4)(*b*) to include the fair value gains on revaluation of land and buildings referred to in section 42(1)(*a*)(i) arising from a merger or acquisition, the net book value of reserves as at the end of December 1998 or the relevant date (within the meaning of section 43(8)) shall be deemed to include the fair value gains approved under section 43(4)(*b*).

32. Provisions supplementary to section 31

(1) Subject to subsection (2), an authorized institution which calculates its capital adequacy ratio on a consolidated basis shall do so using the same approach in calculating a relevant risk as it would be required to use if it were calculating that ratio on a solo basis.

(2) With the prior consent of the Monetary Authority, an authorized institution which calculates its capital adequacy ratio on a consolidated basis is not required to comply with subsection (1) if the institution demonstrates to the satisfaction of the Monetary Authority that it is not practicable for every member of its consolidation group to use the same approach to calculate the relevant risk of the group on that basis.

(3) Where an authorized institution which calculates its capital adequacy ratio on a consolidated basis uses the BIA approach to calculate its operational risk—

(*a*) subject to paragraph (*b*), the institution may, in calculating the gross income of its consolidation group in any given year of the last 3 years, offset a positive gross income of a member of the group in the given year with a negative gross income of another member of the group in that given year;

(*b*) the institution shall not, pursuant to paragraph (*a*), offset a positive gross income with a negative gross income between any of the last 3 years.

(4) Where an authorized institution which calculates its capital adequacy ratio on a consolidated basis uses the STO approach or ASA approach to calculate its operational risk—

(*a*) subject to paragraph (*b*), the institution may, in calculating the gross income of its consolidation group in any given year of the last 3 years, offset a positive gross income of a standardized business line of a member of the group in the given year with a negative gross income of that standardized business line of another member of the group in that given year;

(*b*) the institution shall not, pursuant to paragraph (*a*), offset a positive gross income with a negative gross income between any of the last 3 years.

33. Exceptions to section 27

(1) Where—

(*a*) an authorized institution calculates its capital adequacy ratio on a consolidated basis; and

(*b*) a subsidiary of the institution which is a member of its consolidation group and is incorporated in a country other than Hong Kong calculates its capital adequacy ratio on a solo basis in accordance with the capital adequacy standards applicable in that country,

the institution may apply to the Monetary Authority for approval to risk-weight the exposures of that subsidiary in accordance with those standards instead of in accordance with these Rules.

(2) Subject to subsection (3), the Monetary Authority shall determine an application under subsection (1) from an authorized institution by—

(*a*) granting approval to the institution to risk-weight the exposures of the subsidiary specified in the application in accordance with the capital adequacy standards applicable in the country where the subsidiary is incorporated instead of in accordance with these Rules, and giving the institution a section 98(2) requirement to give effect to the approval; or

(*b*) refusing to grant the approval.

(3) Without prejudice to the generality of subsection (2)(*b*), the Monetary Authority shall refuse to grant approval to an authorized institution to risk-weight the exposures of a subsidiary which is a member of the institution's consolidation group in accordance with the capital adequacy standards applicable in the country in which the subsidiary is incorporated instead of in accordance with these Rules unless the institution demonstrates to the satisfaction of the Monetary Authority that the use of those standards would not materially prejudice the calculation of the institution's capital adequacy ratio.

(4) An authorized institution which calculates its capital adequacy ratio on a consolidated basis may apply to the Monetary Authority for approval to calculate that ratio by excluding one or more than one member from its consolidation group.

(5) Subject to subsection (6), the Monetary Authority shall determine an application under subsection (4) from an authorized institution by—

(*a*) granting approval to the institution to calculate its capital adequacy ratio by excluding from its consolidation group such members of the group as the Monetary Authority specifies and giving the institution a section 98(2) requirement to give effect to the approval; or

(*b*) refusing to grant the approval.

(6) Without prejudice to the generality of subsection (5)(*b*), the Monetary Authority shall refuse to grant approval to an authorized institution to calculate its capital adequacy ratio by excluding from its consolidation group any member of the group unless the institution demonstrates to the satisfaction of the Monetary Authority that the inclusion of that member in the group—

(*a*) would be inappropriate or misleading; or

(*b*) is not practicable due to regulatory, legal or taxation constraints on the transfer of information necessary to enable the institution to calculate that ratio on a consolidated basis in respect of that member.

Division 8—Decisions to which section 101B(1) of Ordinance applies

34. Reviewable decisions

A decision made by the Monetary Authority under section 6(2), 8(2), 18(2) or 25(2) is a decision to which section 101B(1) of the Ordinance applies.