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BANKING (DISCLOSURE) RULES

(Made by the Monetary Authority under section 60A of the Banking Ordinance (Cap. 155) as amended by the Banking (Amendment) Ordinance 2005 (19 of 2005) after consultation with the Financial Secretary, the Banking Advisory Committee, the Deposit-taking Companies Advisory Committee, The Hong Kong Association of Banks and The DTC Association)

PART 1

PRELIMINARY

1. Commencement

These Rules shall come into operation on the day appointed for the commencement of section 2 of the Banking (Amendment) Ordinance 2005 (19 of 2005).

2. Interpretation

(1) In these Rules, unless the context otherwise requires—

“active market” (活躍市場), in relation to any financial assets, means a market at which the quoted price of the assets—

(a) is readily obtainable and regularly available from an exchange, dealer, broker, industry group, pricing service or regulatory agency; and

(b) reflects actual and regularly occurring transactions involving the assets, which take place on an arm's length basis;

“annual reporting period” (周年報告期), in relation to an authorized institution, means the institution's last financial year;

“associate” (聯營者), in relation to an authorized institution, means a person (including a company, a partnership and any other unincorporated body but excluding an individual)—

(a) over which the institution has significant influence; and

(b) which is neither a subsidiary nor a joint venture in which the institution has an interest;

“available-for-sale” (可供出售) has the meaning assigned to it by section 35 of the Capital Rules;

“capital requirements” (資本規定), in relation to—

- (a) the measure of an authorized institution's non-securitization exposures to credit risk calculated in accordance with Part 4, 5 or 6, as the case requires, of the Capital Rules; and
- (b) the measure of an authorized institution's securitization exposures to credit risk calculated in accordance with Part 7 of the Capital Rules,

means the amount of capital required to be held by the institution for that risk based on the risk-weighted amount for that risk multiplied by 8%;

“Capital Rules” (《資本規則》) means the Banking (Capital) Rules (L.N. 228 of 2006);

“cash and balances with banks” (現金及銀行結餘) means—

- (a) cash in the till;
- (b) demand deposits with banks; and
- (c) deposits with banks which have a residual contractual maturity of not more than one month;

“certificate of deposit” (存款證) means any certificate of deposit (including a certificate of deposit held for trading purposes) regardless of maturity;

“consolidation requirement” (綜合規定) has the meaning assigned to it by section 35 of the Capital Rules;

“debt securities” (債務證券) has the meaning assigned to it by section 35 of the Capital Rules;

“delta-weighted position” (得爾塔加權持倉) has the meaning assigned to it by section 281 of the Capital Rules;

“deposits and balances from banks” (尚欠銀行存款及結餘), in relation to an authorized institution—

- (a) subject to paragraph (b), means all amounts which arise out of banking transactions owed by the institution to other banks;
- (b) does not include such amounts taking the form of debt securities or certificates of deposit issued by the institution;

“disclosure statement” (披露報表), in relation to an authorized institution—

- (a) means, except in Part 8, a disclosure statement prepared by the institution pursuant to section 6(1);
- (b) means, in Part 8, a disclosure statement prepared by the institution pursuant to section 88(1);

“effective interest method” (實際利率法), in relation to a financial asset (including a group of financial assets) or financial liability (including a group of financial liabilities), means a method of—

- (a) calculating the amortized cost of the asset or liability, as the case may be; and
- (b) allocating the interest income and interest expense of the asset or the interest income and interest expense of the liability, as the case may be,

over the expected life of the asset or liability, as the case may be;

“effective interest rate” (實際利率), in relation to a financial asset or financial liability, means an interest rate which is calculated by—

(a) exactly discounting—

(i) the estimated future cash receipts and cash payments through the expected life (or, where appropriate, a shorter period) of the financial asset; or

(ii) the estimated future cash receipts and cash payments through the expected life (or, where appropriate, a shorter period) of the financial liability,

as the case may be, to the net carrying amount of the asset or liability, as the case may be; and

(b) including all amounts received and paid in respect of the asset or received and paid in respect of the liability, as the case may be, which are an integral part of the interest rate (including transaction costs and all other premiums or discounts);

“exchange rate-related derivative contract” (匯率關聯衍生工具合約) has the meaning assigned to it by section 281 of the Capital Rules;

“financial assets or financial liabilities measured at fair value through profit or loss” (以公平價值計量經損益表入帳的金融資產或金融負債), in relation to an authorized institution, means financial assets or financial liabilities—

(a) which are classified by the institution as held for trading; or

(b) which are designated by the institution upon initial recognition as at fair value through profit or loss;

“financial concerns” (金融企業) means—

(a) investment companies including—

(i) companies in the business of investment in commodity futures, foreign currencies, gold bullion, shares, funds and securities;

(ii) unit trusts;

(iii) retirement funds; and

(iv) investment holding companies;

(b) insurance companies;

(c) futures brokers; and

(d) finance companies and other persons engaged in the financial sector which are not authorized institutions or banks, including companies in the business of leasing, factoring, bills discounting, hire purchase, mortgage finance, commercial and industrial finance, gold bullion brokers, money lenders, pawnshops and credit card companies;

“foreign currency” (非港元貨幣) means any currency other than the Hong Kong dollar;

“geographical segment” (地域分部), in relation to an authorized institution, means a business unit of the institution—

- (a) which is engaged in providing products or services within a particular economic environment;
- (b) which is subject to risks and returns which are different from those of business units of the institution operating in other economic environments; and
- (c) which is distinct from other business units of the institution due to factors relating to—
 - (i) similarity of economic and political conditions;
 - (ii) relationships between operations in different geographical areas;
 - (iii) proximity of operations;
 - (iv) special risks associated with operations in a particular area;
 - (v) exchange control regulations;
 - (vi) underlying currency risks; or
 - (vii) any combination of the matters referred to in subparagraphs (i), (ii), (iii), (iv), (v) and (vi);

“held-to-maturity investments” (持有至到期投資), in relation to an authorized institution—

- (a) subject to paragraph (b), means financial assets of the institution (other than derivative contracts) with fixed or determinable payments and fixed maturity which the institution has the positive intention and ability to hold to maturity;
- (b) does not include financial assets—
 - (i) which the institution designates upon initial recognition as at fair value through profit or loss;
 - (ii) which are available-for-sale; or
 - (iii) which fall within the definition of “loans and receivables” in this section;

“Hong Kong Internet website” (香港互聯網網站), in relation to an authorized institution, means a website (or section of a website) of the institution which is specifically intended to be accessible by the general public in Hong Kong;

“interest rate derivative contract” (利率衍生工具合約) has the meaning assigned to it by section 281 of the Capital Rules;

“interim reporting period” (中期報告期), in relation to an authorized institution, means the 6 months period immediately after the close of the institution’s last financial year;

“investment property” (投資物業), in relation to an authorized institution, means any immovable property—

- (a) which is owned by the institution, or held by the institution as a lessee under a finance lease, to earn rentals or for capital appreciation, or both; and
- (b) which is not held by the institution—

(i) for use in the production or supply of goods or services or for administrative purposes; or

(ii) for sale in the ordinary course of business;

“issued debt securities” (已發行債務證券) means all negotiable securities other than loan capital, stocks, shares, import or export trade bills, or certificates of deposit;

“loan capital” (借貸資本) means subordinated liabilities (including loans, debentures and floating rate notes);

“loans and advances to banks” (對銀行的貸款及放款) means placements with banks which have a residual contractual maturity of more than one year;

“loans and receivables” (貸款及應收款項), in relation to an authorized institution—

(a) subject to paragraph (b), means financial assets of the institution (other than derivative contracts) with fixed or determinable payments which are not quoted in an active market;

(b) does not include—

(i) financial assets which the institution—

(A) intends to sell immediately or in the near term; or

(B) designates upon initial recognition as at fair value through profit or loss;

(ii) financial assets which the institution designates upon initial recognition as available for sale; or

(iii) financial assets purchased by the institution, for which the institution may not recover substantially all of its initial investment for reasons not related to credit deterioration;

“premises and equipment expense” (房產及設備開支), in relation to an authorized institution’s operating expenses, includes rents and rates, insurance of premises and equipment, lighting, heating, maintenance costs and electronic data processing expenses;

“publish” (發布) includes distribute, make available and disseminate;

“reporting date” (報告日期), in relation to a disclosure required under these Rules, means the last day of the reporting period to which the disclosure relates;

“reporting period” (報告期) means—

(a) an annual reporting period; or

(b) an interim reporting period;

“repossessed asset” (經收回資產), in relation to an authorized institution, means an asset in respect of which the institution has acquired control (whether through court proceedings or otherwise) for the discharge in whole or in part of the obligations of an obligor;

“surplus provisions” (準備金餘額), in relation to an authorized institution which uses the IRB approach to calculate its credit risk for non-securitization exposures, means that part of the excess of the institution’s total eligible provisions over the institution’s total EL amount which is included in the institution’s supplementary capital in the determination of the institution’s capital base;

“swap deposit arrangement” (掉期存款安排), in relation to an authorized institution, means an arrangement entered into by the institution with an obligor whereby—

- (a) the institution sells a specified currency at spot rate to the obligor against another currency; and
- (b) at the same time, the obligor deposits the specified currency so purchased with the institution and enters into a forward exchange rate contract with the institution to sell the specified currency so purchased back to the institution against another currency at a specified exchange rate on a future date;

“trade bills” (貿易匯票), in relation to an authorized institution, means all bills of exchange purchased by the institution in relation to trade transactions.

(2) Section 2 of the Capital Rules applies to the interpretation of these Rules as that section applies to the interpretation of the Capital Rules.

(3) A disclosure required under these Rules is—

- (a) a disclosure to the general public; and
- (b) unless the context otherwise requires, a disclosure as at the reporting date.

3. Application

(1) Parts 2 and 4 apply to an authorized institution incorporated in Hong Kong except such an institution which is exempted under subsection (7).

(2) Part 3 applies to an authorized institution incorporated in Hong Kong except such an institution which is exempted under subsection (8).

(3) Part 5 applies to an authorized institution—

- (a) to which Part 4 applies; and
- (b) which uses the STC approach to calculate its credit risk for—
 - (i) non-securitization exposures; or
 - (ii) non-securitization exposures the subject of an exemption under section 12(2)(a) of the Capital Rules.

(4) Part 6 applies to an authorized institution—

- (a) to which Part 4 applies; and
- (b) which uses the BSC approach to calculate its credit risk for non-securitization exposures.

- (5) Part 7 applies to an authorized institution—
- (a) to which Part 4 applies; and
 - (b) which uses the IRB approach to calculate its credit risk for non-securitization exposures.
- (6) Part 8 applies to an authorized institution incorporated outside Hong Kong except such an institution which is exempted under subsection (9).
- (7) For the purposes of subsection (1), the Monetary Authority may, by notice in writing given to an authorized institution incorporated in Hong Kong, exempt the institution from the application of Parts 2 and 4 if—
- (a) the institution is a deposit-taking company or restricted licence bank; and
 - (b) the institution demonstrates to the satisfaction of the Monetary Authority that it meets the following criteria—
 - (i) it has total assets less provisions of less than \$1 billion (or the equivalent amount in any foreign currency); and
 - (ii) it has total deposits from customers of less than \$300 million (or the equivalent amount in any foreign currency).
- (8) For the purposes of subsection (2), the Monetary Authority may, by notice in writing given to an authorized institution incorporated in Hong Kong, exempt the institution from the application of Part 3 if—
- (a) the institution is exempted from the application of Parts 2 and 4 under subsection (7); or
 - (b) the institution—
 - (i) is not listed on The Stock Exchange of Hong Kong Limited; and
 - (ii) is a wholly owned subsidiary of an authorized institution incorporated in Hong Kong.
- (9) For the purposes of subsection (6), the Monetary Authority may, by notice in writing given to an authorized institution incorporated outside Hong Kong, exempt the institution from the application of Part 8 if the institution demonstrates to the satisfaction of the Monetary Authority that it meets the following criteria—
- (a) its local branches, together with its principal place of business in Hong Kong, have in aggregate total assets less provisions of less than \$10 billion (or the equivalent amount in any foreign currency); and
 - (b) its local branches, together with its principal place of business in Hong Kong, have in aggregate total deposits from customers of less than \$2 billion (or the equivalent amount in any foreign currency).

(10) For the purposes of determining whether or not an authorized institution meets the criteria referred to in subsection (7)(b) or (9), the Monetary Authority shall make reference to the relevant average of the relevant figures over the relevant period of the institution.

(11) Where the Monetary Authority has determined that an authorized institution is not exempted under subsection (7) because the institution does not meet the criteria referred to in subsection (7)(b), the institution shall not subsequently be exempted under subsection (7) unless—

- (a) the Monetary Authority makes a subsequent determination that the institution is exempted under subsection (7); and
- (b) the institution submits to the Monetary Authority a business plan, within a period reasonable in all the circumstances of the case, which—
 - (i) demonstrates to the satisfaction of the Monetary Authority that, if the plan were implemented by the institution, it would be unlikely that the institution would cease to meet the criteria referred to in subsection (7)(b) during the period referred to in subparagraph (ii); and
 - (ii) covers such an appropriate period in the future that the Monetary Authority is satisfied that it would be unlikely that the institution would cease to meet the criteria referred to in subsection (7)(b) in the foreseeable future.

(12) Where the Monetary Authority is satisfied that an authorized institution which is exempted under subsection (7) ceases to fall within the description of subsection (7)(a) or ceases to meet the criteria referred to in subsection (7)(b), the Monetary Authority may, by notice in writing given to the institution, inform the institution that it ceases to be so exempted from the date specified in the notice.

(13) Where the Monetary Authority is satisfied that an authorized institution which is exempted under subsection (8) ceases to fall within the description of subsection (8)(a) or (b), the Monetary Authority may, by notice in writing given to the institution, inform the institution that it ceases to be so exempted from the date specified in the notice.

(14) Where the Monetary Authority is satisfied that an authorized institution which is exempted under subsection (9) ceases to meet the criteria referred to in that subsection, the Monetary Authority may, by notice in writing given to the institution, inform the institution that it ceases to be so exempted from the date specified in the notice.

(15) These Rules do not apply to or in relation to an authorized institution except on and after the first day of the institution's first financial year commencing after 31 December 2006.

(16) For the avoidance of doubt, it is hereby declared that subsection (15) shall not be construed to disapply, in respect of a reporting period of an authorized institution to which these Rules do not apply pursuant to the operation of that subsection, any of the provisions of the Ordinance (including any guidelines made under the Ordinance)—

- (a) relating to disclosures by an authorized institution; and
- (b) as in force immediately before the commencement of that subsection.

(17) In this section—

“relevant average” (有關平均數), in relation to the relevant figures for an authorized institution, means the arithmetic mean of the relevant figures as at the end of each calendar month for the last relevant period of the institution;

“relevant figures” (有關數字), in relation to an authorized institution, means the figures as at the end of each calendar month relating to the institution’s total assets less provisions and total deposits from customers, as set out in the return relating to assets and liabilities submitted by the institution to the Monetary Authority for each calendar month pursuant to section 63 of the Ordinance;

“relevant period” (有關期間), in relation to an authorized institution, means each period of 12 calendar months ending on and including the fifth calendar month preceding the close of the institution’s financial year.

PART 2

GENERAL REQUIREMENTS FOR AUTHORIZED INSTITUTIONS INCORPORATED IN HONG KONG

4. References to authorized institution in Part 2

Unless the context otherwise requires, a reference to an authorized institution in this Part is a reference to an authorized institution which falls within section 3(1).

5. Disclosure policy

An authorized institution shall have in place, not later than 6 months after the commencement of this section or after the date on which it became an authorized institution, whichever is the later, a clearly documented policy—

- (a) which sets out—

- (i) the approach used by the institution to determine the content, appropriateness and frequency of the information it discloses to the general public relating to its state of affairs, profit and loss or capital adequacy ratio; and
 - (ii) the institution's internal controls over its process for making such disclosures (including internal controls for verifying or reviewing the accuracy of the information disclosed); and
- (b) which is approved by the institution's board of directors.

6. Medium and location of disclosure and issue of press release

(1) Subject to subsections (2) and (3), where an authorized institution is required under these Rules to disclose information (however described), it shall make that disclosure by—

- (a) preparing a disclosure statement, in the Chinese and English languages, which contains the information;
- (b) publishing the statement—
 - (i) not later than 4 months after the end of the reporting period to which the statement relates (except in the case of a statement which relates to Part 3);
 - (ii) not later than 3 months after the end of the reporting period to which the statement relates in the case of a statement which relates to Part 3; and
- (c) complying with the other provisions of this section applicable to or in relation to the statement.

(2) An authorized institution shall make it clear in its disclosure statement which information contained in the statement has been audited and which information contained in the statement has not been audited.

(3) An authorized institution shall ensure that when its disclosure statement is published—

- (a) the statement contains—
 - (i) all the disclosures required under these Rules to be made by the institution for the reporting period to which the statement relates; or
 - (ii) a prescribed summary; and
- (b) neither the disclosures referred to in paragraph (a)(i), nor the prescribed summary referred to in paragraph (a)(ii), nor any information published with the prescribed summary, is false or misleading in any material respect.

(4) An authorized institution shall, at the same time as it publishes its disclosure statement, issue a press release to the press in Hong Kong, in the Chinese and English languages containing the statement or consisting of the statement.

(5) An authorized institution shall lodge a copy of its disclosure statement with the Monetary Authority before it publishes the statement.

(6) The Monetary Authority shall keep each copy of a disclosure statement lodged with it pursuant to subsection (5) with the register.

(7) Subject to subsections (8) and (9), an authorized institution shall—

(a) keep one or more than one copy (referred to in this subsection as the “relevant copy”) of each of its disclosure statements—

(i) in its principal place of business in Hong Kong; and

(ii) if practicable, in each local branch of the institution; and

(b) make a relevant copy available for inspection by the general public during the business hours of the institution at the place where the relevant copy is kept.

(8) Where an authorized institution publishes a disclosure statement which contains the disclosures referred to in subsection (3)(a)(i), it shall ensure that the statement is available for inspection under subsection (7) for a period—

(a) in the case where the statement relates to an annual reporting period, not less than the period commencing on the date of the publication of the statement and ending on the date of publication in accordance with subsection (1) of its disclosure statement in respect of the immediately succeeding annual reporting period; or

(b) in the case where the statement relates to an interim reporting period, not less than the period commencing on the date of the publication of the statement and ending on the date of publication in accordance with subsection (1) of its disclosure statement in respect of the immediately succeeding interim reporting period.

(9) Where an authorized institution publishes a disclosure statement which contains a prescribed summary—

(a) it shall ensure that the statement is available for inspection under subsection (7) for a period—

(i) in the case where the statement relates to an annual reporting period, not less than the period commencing on the date of the publication of the statement and ending on the date of publication in accordance with subsection (1) of its disclosure statement in respect of the immediately succeeding annual reporting period; or

- (ii) in the case where the statement relates to an interim reporting period, not less than the period commencing on the date of the publication of the statement and ending on the date of publication in accordance with subsection (1) of its disclosure statement in respect of the immediately succeeding interim reporting period; and
- (b) it shall not change the means as stated in the prescribed summary by which the general public may readily access the relevant complete disclosures unless it amends the summary in such a manner, and at such time, that the summary at all times states the means by which the general public may readily access the relevant complete disclosures.

(10) Subsections (5) and (6) apply to an amendment referred to in subsection (9)(b) of a prescribed summary contained in an authorized institution's disclosure statement as they apply to the disclosure statement.

(11) In this section—

“prescribed summary” (訂明撮要), in relation to an authorized institution's disclosure statement, means a statement setting out the location at which and the means by which the general public may readily access all the disclosures—

- (a) which are required under these Rules to be made by the institution for the reporting period to which the disclosure statement relates; and
- (b) which are readily accessible by the general public—
 - (i) on a Hong Kong Internet website;
 - (ii) if section 7 is applicable, in the institution's annual report and accounts, in any attachment to the institution's annual report and accounts, or by any other means;
 - (iii) if section 15 is applicable, on an Internet website of the institution's parent bank; or
 - (iv) by any combination of the means referred to in subparagraphs (i), (ii) and (iii).

7. Interaction of other requirements

Where—

- (a) an authorized institution makes a disclosure (referred to in this section as an “external disclosure”) pursuant to a requirement (referred to in this section as an “external requirement”), whether in or outside Hong Kong, which is not a requirement under these Rules (referred to in this section as an “internal requirement”);

- (b) the external requirement is similar, in whole or in part, to an internal requirement pursuant to which the institution is required to make a disclosure (referred to in this section as an “internal disclosure”) similar to the external disclosure; and
- (c) the external disclosure is available to the general public in Hong Kong,

the institution may treat the external disclosure as complying with the internal requirement if—

- (d) the institution demonstrates to the satisfaction of the Monetary Authority that—
 - (i) the external disclosure substantially complies with the internal requirement; and
 - (ii) the institution’s disclosure statement adequately explains, or is accompanied by information which adequately explains, any material differences between the external disclosure and the internal disclosure which the institution would have made but for the operation of this section; and
- (e) the institution’s disclosure statement states the means by which the general public may readily access the external disclosure (including the information, if any, referred to in paragraph (d)(ii)).

8. Verification

(1) The senior management of an authorized institution shall ensure that the information which the institution is required to disclose pursuant to these Rules is, before being so disclosed, scrutinized and subjected to an internal review to ensure that the information is not false or misleading in any material respect.

(2) The internal review referred to in subsection (1) shall be carried out by an authorized institution’s adequately qualified personnel who are independent of the institution’s staff or management responsible for preparing the information which the institution is required to disclose pursuant to these Rules.

9. Proprietary and confidential information

(1) An authorized institution may, with the prior consent of the Monetary Authority, decline to disclose proprietary or confidential information the disclosure of which would otherwise be required pursuant to a requirement of these Rules (referred to in this subsection as the “relevant requirement”) if the institution—

- (a) discloses general information relating to the subject matter of the relevant requirement in its disclosure statement (whether or not pursuant to the relevant requirement); and
- (b) includes a statement in that disclosure statement stating what information it has declined to disclose pursuant to this section.

(2) In this section—

“proprietary or confidential information” (專有或機密資料), in relation to an authorized institution, means information—

- (a) which, if it became publicly available, would cause serious prejudice to the competitive position of the institution; or
- (b) in respect of which the institution has legally binding obligations to its customers or other counterparties which prevent the institution from disclosing the information.

10. Materiality

(1) The senior management of an authorized institution shall ensure that a disclosure made by the institution pursuant to these Rules contains all the material information.

(2) In this section—

“material information” (重要資料) means information—

- (a) which is required to be disclosed under these Rules; and
- (b) which, if it were not disclosed or were misstated, could 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.

11. Consolidated group level disclosures

(1) Subject to subsections (2), (3), (4) and (5), a disclosure made pursuant to these Rules by an authorized institution applies to the institution on a consolidated basis whether or not the institution is also required to calculate its capital adequacy ratio on a solo basis or solo-consolidated basis pursuant to the Capital Rules.

(2) Subsection (1) does not apply to an authorized institution which is only required to calculate its capital adequacy ratio on a solo basis pursuant to the Capital Rules.

(3) Subsection (1) does not operate to prevent an authorized institution from making a disclosure pursuant to these Rules on a solo basis or solo-consolidated basis, as the case requires, in addition to a consolidated basis if the institution reasonably believes that to do so would provide greater clarity in understanding the institution’s state of affairs, profit and loss or capital adequacy ratio, for persons relying on the disclosures.

(4) Subsection (1) does not apply to disclosures required to be made by an authorized institution pursuant to any of—

- (a) sections 19, 20, 21, 22 and 23;
- (b) sections 25, 26, 27, 28, 29 and 30;
- (c) sections 34, 35, 36, 37, 38, 39, 40, 41, 42, 43 and 44; or
- (d) sections 46, 47, 48, 49, 50, 51 and 52.

(5) Subject to subsection (6), a disclosure required to be made by an authorized institution pursuant to any of the sections set out in subsection (4)(a), (b), (c) and (d) shall be made on the basis of preparation (whether fully consolidated or unconsolidated) which the institution believes is most appropriate for the purposes of providing clarity in understanding the institution's state of affairs, profit and loss or capital adequacy ratio for persons relying on the disclosures required by those sections, including (where appropriate) the basis used by the institution for accounting purposes for the reporting period to which the disclosure relates.

(6) A disclosure required to be made by an authorized institution pursuant to any of sections 28, 29, 30, 49, 50 and 51 shall be made on the same basis as that used by the institution to prepare the return respectively referred to in those sections.

12. Basis of disclosure

An authorized institution shall make disclosures pursuant to these Rules on the basis of—

- (a) subject to paragraphs (b) and (c), the approach it uses under the Capital Rules to calculate its regulatory capital or capital charge for credit risk, market risk or operational risk, as the case requires;
- (b) subject to paragraph (c), if it uses a combination of 2 or more approaches under the Capital Rules to calculate its regulatory capital or capital charge for credit risk, market risk or operational risk, the respective approach it uses for each of its exposure classes, business units, risk categories, or parts of its business, as the case requires;
- (c) if it has, during any one reporting period, used different approaches under the Capital Rules to calculate its regulatory capital or capital charge for credit risk, market risk or operational risk for the same exposure class, business unit, risk category, or part of its business, the respective approach it uses for each of its exposure classes, business units, risk categories, or parts of its business, as the case requires, as at the reporting date for that period.

13. Comparative information

(1) Subject to subsections (2), (3) and (4), an authorized institution which makes a quantitative disclosure (referred to in this section as the “relevant disclosure”) pursuant to these Rules shall ensure that the relevant disclosure is accompanied by, or contains, the like quantitative disclosure, if any, it made pursuant to these Rules—

- (a) subject to paragraph (b), for its immediately preceding annual reporting period;
- (b) in the case of profit and loss information and liquidity ratio—
 - (i) if the relevant disclosure relates to an annual reporting period, for the immediately preceding annual reporting period;
 - (ii) if the relevant disclosure relates to an interim reporting period, for the immediately preceding interim reporting period.

(2) Notwithstanding any case where subsection (1) does not apply to an authorized institution in a reporting period referred to in that subsection, the institution shall, if it is practicable for it to do so, ensure that the disclosure referred to in that subsection is accompanied by the equivalent to the like quantitative disclosure referred to in that subsection.

(3) Where an authorized institution uses, in 2 consecutive annual reporting periods, different approaches under the Capital Rules to calculate its regulatory capital or capital charge for credit risk, market risk or operational risk for the same exposure class, business unit, risk category, or part of its business, as the case requires, the institution is not required to comply with subsection (1) in respect of that exposure class, business unit, risk category, or part of its business, as the case may be, for the last of those periods if the quantitative disclosure concerned is accompanied by, or contains, a statement explaining the reason why subsection (1) has not been complied with in respect of that disclosure.

(4) Where the like quantitative disclosure contains a material restatement of information, the authorized institution shall ensure that the relevant disclosure is accompanied by, or contains, a statement giving the nature of the restatement and the institution’s reasons for the restatement.

14. Frequency

(1) An authorized institution shall make a disclosure pursuant to these Rules (other than Part 3) in respect of the institution’s last financial year.

(2) An authorized institution shall make a disclosure pursuant to Part 3 in respect of the 6 months period immediately after the close of the institution’s last financial year.

15. Group-wide disclosures made by parent bank of authorized institution

An authorized institution may treat disclosures (referred to in this section as “foreign disclosures”) made by its parent bank, if any, as being part of the disclosures (referred to in this section as “local disclosures”) the institution is required to make pursuant to these Rules if the institution demonstrates to the satisfaction of the Monetary Authority that—

- (a) the foreign disclosures are not materially different from the local disclosures;
- (b) the foreign disclosures are prepared in accordance with the relevant principles of the document entitled “International Convergence of Capital Measurement and Capital Standards: A Revised Framework (Comprehensive Version)” (published by the Basel Committee on Banking Supervision in June 2006) adopted by the relevant banking supervisory authority of the parent bank;
- (c) the characteristics of the institution’s relevant risk exposures subject to requirements of these Rules are not materially different from those of the relevant risk exposures of the parent bank;
- (d) the foreign disclosures provide a sufficient level of detail on the range of risks incurred by the institution and on how those risks are managed to permit third parties to form a considered view of the relevant aspects of the institution’s operations;
- (e) the disclosure statement of the institution contains a statement of the location where all the foreign disclosures can be found;
- (f) the foreign disclosures are set out on an Internet website of the parent bank which is accessible by the general public; and
- (g) the institution has a Hong Kong Internet website which contains a link to the parent bank’s Internet website referred to in paragraph (f).

16. Compliance

(1) An authorized institution shall, in addition to the disclosures it is required to make pursuant to any other provisions of these Rules, include in its disclosure statement such other information that it is necessary to so include to ensure that—

- (a) the information contained in the statement is not false or misleading in any material respect; and
- (b) the operations of the institution are clearly explained.

(2) Notwithstanding any other provisions of these Rules, where it is not practicable for an authorized institution to make a disclosure required under these Rules for reasons not related to section 9, the institution—

- (a) shall, after consultation with the Monetary Authority, include in its disclosure statement—
 - (i) a statement that it is so unable and of the reasons why it is so unable; and
 - (ii) information which is the closest available alternative to the information which would have been the subject of those disclosures if the institution had not been so unable; and
- (b) shall not publish the disclosure statement except with the prior consent of the Monetary Authority.

PART 3

INTERIM FINANCIAL DISCLOSURES TO BE MADE BY AUTHORIZED INSTITUTIONS INCORPORATED IN HONG KONG

17. References to authorized institution in Part 3

Unless the context otherwise requires, a reference to an authorized institution in this Part is a reference to an authorized institution which falls within section 3(2).

18. Scope of consolidation

An authorized institution shall disclose—

- (a) the basis of consolidation including—
 - (i) an outline of the differences between the basis of consolidation for accounting purposes and the basis of consolidation for regulatory purposes; and
 - (ii) a description of—
 - (A) the institution's subsidiaries which are members of its consolidation group; and
 - (B) the institution's subsidiaries in respect of which the institution's shareholdings therein are deducted from the institution's core capital and supplementary capital as determined in accordance with Part 3 of the Capital Rules; and

- (b) any restrictions, or other major impediments, on the transfer of funds or regulatory capital between the members of the institution's consolidation group including any relevant regulatory, legal or taxation constraints on the transfer of capital.

19. Income statement and equity information

(1) An authorized institution shall disclose for the interim reporting period particulars of—

- (a) the institution's net gains or net losses on—
 - (i) financial assets or financial liabilities measured at fair value through profit or loss, showing separately the amount of net gains or net losses arising from financial assets or financial liabilities, as the case may be, which are—
 - (A) designated as such upon initial recognition; and
 - (B) classified as held for trading;
 - (ii) available-for-sale financial assets, showing separately the amount of net gains or net losses recognized directly in equity during the interim reporting period and the amount of net gains or net losses removed from equity and recognized in profit or loss for the interim reporting period;
 - (iii) held-to-maturity investments;
 - (iv) loans and receivables; and
 - (v) financial liabilities measured at amortized cost;
- (b) the institution's total interest income and total interest expense (calculated by using the effective interest method) for financial assets or financial liabilities which are not measured at fair value through profit or loss;
- (c) the institution's fees and commission income and expense (other than amounts included in determining the effective interest rate) which arise from—
 - (i) financial assets or financial liabilities which are not measured at fair value through profit or loss; and
 - (ii) trust and other fiduciary activities which result in the holding or investing of assets on behalf of individuals, trusts, retirement benefits plans, and other entities;
- (d) the institution's interest income on impaired financial assets;
- (e) the institution's dividend income, broken down into receipts from listed and unlisted companies;
- (f) the institution's operating expenses, broken down into—
 - (i) staff costs;

- (ii) premises and equipment expenses, excluding depreciation charges (broken down if material);
- (iii) depreciation charges; and
- (iv) other operating expenses (broken down if material);
- (g) the institution's net gains or net losses from the disposal or revaluation of investment properties;
- (h) the institution's gains less losses from the disposal of property, plant and equipment;
- (i) the institution's impairment losses and specific provisions and collective provisions for impaired assets, broken down into—
 - (i) available-for-sale financial assets;
 - (ii) held-to-maturity investments; and
 - (iii) loans and receivables;
- (j) the institution's tax expenses or tax income, broken down into—
 - (i) Hong Kong tax;
 - (ii) overseas tax; and
 - (iii) deferred tax, if any; and
- (k) the institution's transfers to or from reserves.

(2) Subject to subsection (3), an authorized institution shall disclose an explanatory statement relating to the activities of the institution and its profit (or loss) during the interim reporting period.

(3) An authorized institution shall ensure that a statement disclosed by it pursuant to subsection (2)—

- (a) includes any material information the disclosure of which is necessary for an informed assessment of the trend of the activities and profit (or loss) of the institution together with an indication of any special factor which has influenced those activities and the profit (or loss) during the interim reporting period; and
- (b) enables a comparison to be made with the immediately preceding interim reporting period.

(4) An authorized institution shall, in relation to income and expense, disclose the nature and amount of items of income and expense within profit or loss where such items are of such size, nature or incidence that their disclosure is necessary for understanding the performance of the institution for the interim reporting period.

20. Balance sheet information

An authorized institution shall disclose the carrying amounts of—

- (a) each of the institution's assets, broken down into—
 - (i) cash and balances with banks;

- (ii) placements with banks which have a residual contractual maturity of more than one month but not more than 12 months;
- (iii) financial assets measured at fair value through profit or loss, showing separately those—
 - (A) designated as such upon initial recognition; and
 - (B) classified as held for trading;
- (iv) held-to-maturity investments;
- (v) loans and receivables (other than those falling within subparagraph (i) or (ii)), broken down into—
 - (A) loans and advances to customers;
 - (B) loans and advances to banks;
 - (C) other accounts (broken down if material); and
 - (D) provisions for impaired loans and receivables (broken down into those against loans and advances to customers, loans and advances to banks, other accounts if material) which constitute the institution's—
 - (I) collective provisions; and
 - (II) specific provisions;
- (vi) available-for-sale financial assets;
- (vii) investments in associates; and
- (viii) property, plant and equipment and investment properties including, for each material class of such assets—
 - (A) the cost or valuation of the assets;
 - (B) any additions to, revaluations and disposals of, the assets made during the interim reporting period;
 - (C) the amount provided or written off for the depreciation or diminution in value of the assets during the interim reporting period;
 - (D) the accumulated depreciation of the assets; and
 - (E) the net book value of the assets; and
- (b) each of the institution's equity and liabilities, broken down into—
 - (i) deposits and balances from banks;
 - (ii) deposits from customers, broken down into—
 - (A) demand deposits and current accounts;
 - (B) savings deposits; and
 - (C) time, call and notice deposits;
 - (iii) certificates of deposit issued—
 - (A) measured at fair value through profit or loss, showing separately those—
 - (I) designated as such upon initial recognition; and

- (II) classified as held for trading; and
- (B) measured at amortized cost;
- (iv) issued debt securities—
 - (A) measured at fair value through profit or loss, showing separately those—
 - (I) designated as such upon initial recognition; and
 - (II) classified as held for trading; and
 - (B) measured at amortized cost;
- (v) deferred taxation, if any;
- (vi) other liabilities;
- (vii) provisions;
- (viii) loan capital (including particulars of types, coupon rates and maturities);
- (ix) minority interests;
- (x) share capital; and
- (xi) reserves, broken down into the regulatory reserve, revaluation reserves where maintained, and other material types of reserves.

21. Provisions supplementary to section 20

(1) For the purposes of section 20, an authorized institution shall disclose—

- (a) the amount of impaired loans and advances to customers which are individually determined to be impaired;
- (b) the amount of specific provisions made for such loans and advances;
- (c) the value of collateral which has been taken into account in respect of such loans and advances to which the specific provisions relate; and
- (d) the percentage of such loans and advances to its total amount of loans and advances to customers.

(2) For the purposes of section 20, an authorized institution shall disclose—

- (a) the amount of impaired loans and advances to banks which are individually determined to be impaired;
- (b) the amount of specific provisions made for such loans and advances;
- (c) the value of collateral which has been taken into account in respect of such loans and advances to which the specific provisions relate; and

- (d) the percentage of such loans and advances to its total amount of loans and advances to banks.

22. Provisions supplementary to section 20: derivative transactions

(1) An authorized institution shall disclose the total contractual or notional amounts of derivative transactions, broken down into—

- (a) exchange rate-related derivative contracts (excluding forward foreign exchange contracts arising from swap deposit arrangements);
- (b) interest rate derivative contracts; and
- (c) others.

(2) An authorized institution shall disclose such risk exposure information as is necessary for understanding the underlying risks of the exposures incurred by the institution through the institution's use of derivative transactions.

(3) Without prejudice to the generality of subsection (2), an authorized institution shall disclose—

- (a) the total risk-weighted amount for credit risk and the total fair value (after taking into account the effect of a valid bilateral netting agreement) of its exchange rate-related derivative contracts, interest rate derivative contracts and other derivative transactions, if any; and
- (b) the amount of fair value which has taken into account the effect of a valid bilateral netting agreement.

23. Off-balance sheet exposures (other than derivative transactions)

(1) Subject to subsection (2), an authorized institution shall disclose the contractual or notional amounts of each material class of its off-balance sheet exposures.

(2) Without prejudice to the generality of subsection (1), an authorized institution shall disclose the contractual or notional amount of its off-balance sheet exposures which are—

- (a) direct credit substitutes;
- (b) transaction-related contingencies;
- (c) trade-related contingencies;
- (d) note issuance and revolving underwriting facilities;

- (e) forward asset purchases, amounts owing on partly paid-up shares and securities, forward deposits placed and asset sales with recourse; or
- (f) other commitments which do not fall within any of the classes of off-balance sheet exposures specified in paragraphs (a), (b), (c), (d) and (e), broken down into—
 - (i) commitments which have an original maturity of not more than one year;
 - (ii) commitments which have an original maturity of more than one year; and
 - (iii) commitments which may be cancelled at any time unconditionally by the institution or which provide for automatic cancellation due to a deterioration in the creditworthiness of the persons to whom the institution has made the commitments.

(3) Subject to subsection (4), an authorized institution shall disclose such risk exposure information as is necessary for understanding the underlying risks of the off-balance sheet exposures incurred by the institution.

(4) Without prejudice to the generality of subsection (3), an authorized institution shall disclose the total risk-weighted amount for credit risk of its off-balance sheet exposures, if any.

(5) In this section—
“original maturity” (原訂到期期限), in relation to an off-balance sheet exposure of an authorized institution, means the period between the date on which the exposure is entered into by the institution and the earliest date on which the institution can, at its option, unconditionally cancel the exposure.

24. Capital structure and adequacy

(1) An authorized institution shall disclose the components of its capital base set out in the returns relating to capital adequacy it submitted to the Monetary Authority pursuant to section 63 of the Ordinance in respect of the interim reporting period.

(2) Without prejudice to the generality of subsection (1), the disclosure referred to in that subsection required of an authorized institution shall include—

- (a) in the case of the institution’s core capital—
 - (i) the institution’s paid-up ordinary share capital;
 - (ii) the institution’s paid-up irredeemable non-cumulative preference shares;
 - (iii) the amount standing to the credit of the institution’s share premium account;

- (iv) the institution's published reserves;
- (v) the amount of the institution's profit and loss account;
- (vi) minority interests in the equity of the institution's subsidiaries which are included in the institution's core capital; and
- (vii) the total deductions from the institution's core capital;
- (b) in the case of the institution's supplementary capital—
 - (i) the institution's reserves which are attributable to fair value gains on the revaluation of its holdings of land and buildings;
 - (ii) the institution's reserves which are attributable to fair value gains on the revaluation of its holdings of available-for-sale equities and debt securities (after netting of any overall deficit required to be deducted from the institution's supplementary capital under section 44(3) of the Capital Rules);
 - (iii) the institution's fair value gains arising from its holdings of equities and debt securities designated at fair value through profit or loss included in the institution's supplementary capital;
 - (iv) the amount of the institution's regulatory reserve for general banking risks;
 - (v) the amount of the institution's collective provisions;
 - (vi) the amount of the institution's surplus provisions;
 - (vii) the institution's perpetual subordinated debt;
 - (viii) the institution's paid-up irredeemable cumulative preference shares;
 - (ix) the institution's term subordinated debt;
 - (x) the institution's paid-up term preference shares; and
 - (xi) minority interests in—
 - (A) the paid-up irredeemable non-cumulative preference shares of the institution's subsidiaries (being special purpose vehicles) in excess of the amount included in the institution's core capital which are included in the institution's supplementary capital; and
 - (B) the paid-up irredeemable cumulative preference shares and paid-up term preference shares of the institution's subsidiaries which are included in the institution's supplementary capital;
- (c) the total deductions from the institution's core capital and supplementary capital;
- (d) the institution's core capital after deductions;
- (e) the institution's supplementary capital after deductions; and

- (f) the institution's capital base.
- (3) An authorized institution shall disclose—
- (a) the total amount of any relevant capital shortfall in any of its subsidiaries which are not included in its consolidation group for regulatory purposes; and
 - (b) the names of its subsidiaries which are not included in its consolidation group.
- (4) Subject to subsections (5) and (6), an authorized institution shall disclose—
- (a) its capital adequacy ratio; and
 - (b) its core capital ratio.
- (5) Where an authorized institution is required under section 98(2) of the Ordinance as read with Part 2 of the Capital Rules to calculate its capital adequacy ratio on a consolidated basis, the institution shall disclose—
- (a) its capital adequacy ratio on a consolidated basis; and
 - (b) its core capital ratio.
- (6) Where subsection (5) does not apply to an authorized institution, the institution shall disclose—
- (a) its capital adequacy ratio on a solo basis; and
 - (b) its core capital ratio.
- (7) Where an authorized institution has earmarked part of its retained earnings for maintaining its regulatory reserve to satisfy the provisions of the Ordinance for prudential supervision purposes, the institution shall disclose—
- (a) this fact; and
 - (b) the amount of retained earnings so earmarked.
- (8) In this section—
- “core capital ratio” (核心資本比率), in relation to an authorized institution, means the ratio, expressed as a percentage, of the amount of the institution's core capital after making the deductions therefrom required by Part 3 of the Capital Rules, to the sum of, subject to sections 29, 30 and 31 of the Capital Rules, the institution's risk-weighted amount for credit risk, risk-weighted amount for market risk and risk-weighted amount for operational risk as determined in accordance with the Capital Rules;
- “relevant capital shortfall” (有關資本短欠), in relation to a subsidiary of an authorized institution—
- (a) which is a securities firm or insurance firm; and
 - (b) which is not the subject of a consolidation requirement imposed on the institution,
- means that amount which is deducted from the institution's core capital and supplementary capital pursuant to section 48(2)(h) of the Capital Rules.