

Completion Instructions

Certificate of Compliance with the Banking Ordinance of an authorized institution incorporated in Hong Kong Form MA(BS)1F(a)

Introduction

Section A : General Instructions

1. This Certificate is to be submitted by all authorized institutions incorporated in Hong Kong on a solo basis. Institutions with subsidiaries may additionally be required to submit the Certificate on a consolidated basis. In the case of a solo Certificate, report the positions of the institution's local and overseas branches (if any) in one Certificate; in the case of a consolidated Certificate, report the positions of the institution and its subsidiaries in a separate Certificate.
2. Unless otherwise specified by the Monetary Authority, institutions should submit the Certificate not later than 14 days after the end of each quarter ending on 31 March, 30 June, 30 September and 31 December. If the submission deadline falls on a public holiday, it will be deferred to the next working day.
3. All amounts should be shown to the nearest thousand, in HK\$ or HK\$ equivalents in the case of foreign currency items. The closing middle market T/T rates prevailing at the reporting date should be used for conversion purposes.
4. In completing this Certificate, reference should be made to the relevant sections of the Banking Ordinance regarding the scope of the statutory limits and restrictions.
5. For the purposes of Part XV (i.e. sections 81, 83, 87, 87A, 88 & 90) and Part XVII (i.e. section 98) of the Banking Ordinance, the Monetary Authority may require an institution to observe the limitations and restrictions on a consolidated basis and may specify different subsidiaries for consolidation under these two Parts. This may result in the use of different capital bases to determine compliance with these Parts. Institutions should therefore be careful in selecting the appropriate capital base for reporting under Part II of the Certificate.
6. For the purposes of this Certificate, the term "value of charges" means the book value of the assets which have been charged to another party.
7. Securities transactions should be reported on the "trade date" basis. For the purpose of this Certificate, securities transactions under sale and repurchase agreements ("repos") and reverse repos should be reported on an "economic substance" approach (i.e. they are treated as collateralised deposits and loans respectively). For repos, the reporting institution is exposed to the issuer of the securities. For reverse repos, the reporting institution is, in the first instance, exposed to the counterparty, only in the event of a failure of the counterparty would the reporting institution be exposed to the

issuer of the securities acquired. The reporting treatment of unmatured spot and forward purchase of securities and of unmatured spot and forward sales of securities should be as for repos and reverse repos respectively. Where cash is not involved in these transactions (e.g. securities repos), the reporting institution is only exposed to the issuer of the securities delivered to the counterparty.

Where the terms of a repo transaction transfer substantially all the risks and rewards of the ownership of the securities to the buyer, the transaction should be regarded as an outright sale and the commitment to repurchase should be treated as an off-balance sheet exposure to the issuer of the securities. Where the commitment to repurchase has no pre-determined price, the fair value (e.g. current market value) as of the reporting date should be used. On the other hand, if the reporting institution is a buyer of such a repo, it should regard the transaction as an outright purchase and treat it as an on-balance sheet exposure to the issuer of the securities.

Section B : Specific Instructions

8. Part I - Capital Base

Unless otherwise advised by the Monetary Authority, report the capital base figure stood at the end of the previous quarter which is relevant to the determination of compliance with Part XV of the Banking Ordinance.

9. Part II - Compliance with the Banking Ordinance

9.1 Put a “X” in the appropriate column to indicate whether or not the institution has contravened each of the sections specified in this Part during the reporting period.

9.2 Items 2, 3, 5, 7 & 8

For the purposes of determining compliance with sections 81, 83(except 83(2)(b)), 87, 88 and 90 of the Banking Ordinance, institutions should calculate on a daily basis the relevant ratios by dividing the exposures or amounts of restricted assets under each of these sections by the capital base prevailing at the close of business on the same day. However, for the sake of convenience, institutions may use the capital base reported in Part I of this Certificate as the basis of calculation provided that there has been no significant reduction in the capital base during the quarter covered by the Certificate.

9.3 Item 6

For the purpose of determining compliance with section 87A of the Banking Ordinance, institutions which, during the reporting period, have acquired the share capital of a company (except those approved by the Monetary Authority under section 87A(2)(a) or exempted under section 87A(8)) should calculate the ratio by dividing the value of the share capital (i.e. cost of acquisition or the accumulated value in the case of a series of acquisitions) by the capital base prevailing at the close of business on the date of acquisition. However, for the sake of convenience, institutions may use

the capital base reported in Part I of this Certificate as the basis of calculation provided that there has been no significant reduction in the capital base during the period from the end of the previous quarter to the date of acquisition.

9.4 Item 9

For reasons already mentioned in paragraph 5 above, institutions which have been required by the Monetary Authority to observe section 98 of the Banking Ordinance on a consolidated basis should note that the consolidated capital base to be used for computation under this section may not be the same as the one used under Part XV of the Ordinance.

9.5 Item 10

For the purpose of determining compliance with section 102 of the Banking Ordinance, the average liquidity ratio for each calendar month during the reporting period in respect of the reporting institution's Hong Kong offices should normally be taken unless it has been notified by the Monetary Authority to observe the liquidity ratio requirement on a consolidated basis by including the positions of specific deposit-taking subsidiaries and overseas branches.

9.6 Item 11

For the purpose of determining compliance with section 106 of the Banking Ordinance, only the solo position should be taken into account. This is applicable to reporting under both the solo and the consolidated Certificates.

9.7 Item 12

For the purposes of indicating compliance with the rules made under section 60A(1) of the Banking Ordinance (hereafter referred to “the Rules”), the reporting institution is required to complete item 12 under a solo Certificate only. The certification of compliance should be made in relation to the reporting institution’s most recent disclosure statement issued prior to the Certificate of Compliance. For instance, if the institution’s financial year-end is end-December it should indicate in its solo Certificate for the period ending 30 September whether it has contravened the requirements of the Rules in respect of its disclosures for the interim reporting period. Any contraventions of the Rules in respect of its disclosures for the annual reporting period should be recorded in the Certificate for the period ending 30 June. Where the Certificate of Compliance relates to a quarter in which no disclosure statement has been issued, the reporting institution should give the same answer as on the previous quarter’s Certificate of Compliance.

The reporting institution should complete item 12 by putting a “Y” or “N” in the appropriate column to indicate whether or not the institution has contravened any of the requirements of the Rules. If the answer to item 12 is “yes”, the institution should specify in the space provided relevant section(s) of the Rules that it contravened. If the institution is exempted by the Monetary Authority for disclosures required under the Rules, it should tick the relevant box as provided in the Certificate.

The Rules will only apply to institutions from the start of their 2007-08 financial year. For institutions which have their 2007-08 financial year commencing on a date other than 1 January 2007, they should leave the space blank until a time when they need to make a report concerning their compliance with the Rules.

10. Part III - Maximum Exposures

10.1 Items 1 - 6

For each of the sections specified under these items, report the maximum exposure incurred during the reporting period. In this connection, the daily closing exposures should be used for comparison and reporting purposes. The amount reported should include only those transactions which are subject to the limitations / restrictions prescribed under the relevant sections. Items and transactions which are exempted under sections 81(4), 81(5), 81(6), 81(7), 83(4A), 87(2), 88(2), 88(3) and 88(5) should not be included.

Where an exposure is supported by a letter of comfort, the amount to be reported in item 1 is the difference between the maximum exposure incurred in the reporting period and the limit exempted under s.81(6)(b)(ii) (“the exempt limit”), unless otherwise advised by the Monetary Authority. For the purpose of this return, the exempt limit is defined as the difference between the maximum lending limit as specified in the comfort letter and the statutory limit under section 81 (i.e. that being 25% of an AI’s capital base). An example is provided at Annex 1.

10.2 Item 7

Report the maximum aggregate exposure within the meaning of section 90(1) incurred during the reporting period. Daily closing exposures should again be used for comparison and reporting purposes. Transactions exempted from sections 83, 87 and 88 should not be included in the computation unless otherwise notified by the Monetary Authority.

11. Part IV – Assets under Charge

11.1 Item 1

Report in sub-item 1(c) the maximum ratio, expressed as a percentage, during the reporting period between the aggregate book value of all assets charged and the book value of the total assets after provisions (excluding contra items) of the institution. The book value of the numerator and denominator of such maximum ratio should then be reported under sub-items 1(a) and 1(b) respectively. For both the solo and consolidated Certificates, report only the solo position of the Hong Kong offices and overseas branches.

11.2 Item 2

Report in the table details of all charges created during the reporting period.

These include:

- Column (a) - Date

State in chronological order all the dates on which new charges, except those approved or exempted by the Monetary Authority, were created.

- Column (b) - Value of charges

Report the book value of the assets which were the subject of a new charge created on the date indicated in column (a).

- Column (c) - Aggregate value of all charges

Report the aggregate book value of all the assets which have been charged to another party (including those reported under column (b) but exclude those approved or exempted by the Monetary Authority under sections 106(1) and 106(2)) at the close of business on the date indicated in column (a).

- Column (d) - Value of total assets

Enter the book value of the total assets after provisions (excluding contra items) of the institution at the close of business on the date indicated in column (a).

12. Part V - Exempted / Approved Transactions

12.1 Item 1

Report the maximum exposures during the reporting period in respect of the transactions that were excluded from sections 80, 81 and 83 as approved by the Monetary Authority under sections 80(2), 81(4), 81(5), 81(6)(b)&(i), 81(7), 83(4)(e)&(g) and 83(4A).

- Relevant section:

Enter the section under which exemption / approval has been given by the Monetary Authority.

- Name of customer:

- in the case of section 80(2), enter the name of the company for which the institution has been approved by the Monetary Authority under this section to grant any advances, loans or credit facilities or give any financial guarantee or incur any other liability, against the security of the shares of the company; and

- in the case of sections 81(4), 81(5) and 83(4A), enter the name of the customer to whom the relevant exposures were incurred. Where an exemption is granted by the Monetary Authority under section 83(4A) to a number of staff residential mortgage loans, the institution may report them in aggregate and under the term “unsecured staff mortgage loan”.
- Type of facility:

Enter type of facility such as term loan, overdraft, financial guarantee, letters of credit etc. that has been granted by the institution.
- Limit approved by the Monetary Authority:

Enter limit of facility approved by the Monetary Authority.
- Maximum exposures:

Enter maximum exposures during the reporting period for each of the exempted / approved transactions. For the purpose of this item, the term "exposures" include all those exposures or facilities specified under section 80(2), 81(2) and 83(3) of the Banking Ordinance.

12.2 Item 2

Report the book values of shareholdings, debt securities and interests in land etc. approved by the Monetary Authority under sections 81(6)(i), 81(7), 87(1), 87(2)(a) and 88(5) of the Banking Ordinance which were outstanding at the end of the reporting period.

- Relevant section:

Enter the section under which the relevant approval was given by the Monetary Authority.
- Name of company/ location of property:
 - Enter the name of the company the share capital or debt securities of which were acquired by the institution in satisfaction of debts or under an underwriting contract, etc., or,
 - Enter the address of property which was acquired pursuant to entry into possession by the institution under mortgage.
- Date of acquisition:

Enter the date on which the shares or debt securities of a company or a property were / was acquired by the institution.

- Expiry of approved period of holding:

Enter the expiry date of the extended period of holding approved by the Monetary Authority.

- Value

Enter the book values of the approved holding of shares, debt securities or properties which were outstanding at the end of the reporting period.

12.3 Item 3

Report the maximum aggregate value of all charges during the reporting period which have been approved by the Monetary Authority under section 106(1) of the Banking Ordinance.

- Particulars of charges:

Enter a description of the assets (e.g. properties, shares, debt securities, etc.) which have been charged to another party.

- Value of charges:

Enter the book value of the assets charged.

- Limit of facility secured by charges:

Enter the limit of facilities granted to the institution against the security of the charged assets.

- Maximum amount utilized:

Report the maximum amount of the facility utilized by the institution during the reporting period. For example, in the case of an overdraft facility, report the maximum amount that had been overdrawn by the institution during the reporting period.

12.4 Item 4

Report the maximum aggregate value of all charges exempted by the Monetary Authority under section 106(2) of the Banking Ordinance.

- Particulars of charges:

Enter a description of the assets (e.g. properties, shares, debt securities, etc.) which have been charged to another party.

- Value of charges:

Enter the book value of the assets charged.

- Charge in favour of:

Enter the name of the party to whom the charge was created in favour of e.g. Euroclear Bank, Clearstream Banking, etc.

- Maximum amount outstanding:

Report the maximum amount utilized under the exempted charges during the reporting period.

Hong Kong Monetary Authority
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Illustration of reporting a maximum exposure covered by a letter of comfort

	HK\$'000
Maximum lending limit	100,000
25% of the reporting AI's capital base	<u>30,000</u>
Amount of the exempt limit	70,000
Maximum exposure during the quarter	90,000
Less : exempt limit	<u>70,000</u>
Amount to be reported	20,000
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