

Banking Policy Department

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28 June 2018

By email and by hand

Mr Lee Huat Oon
Acting Chairman
The DTC Association
Unit 1704, 17/F Bonham Trade Centre
50 Bonham Strand East
Sheung Wan
Hong Kong

Dear Mr Lee,

Consultation on amendments to the Banking (Exposure Limits) Rules (“BELR”)

Further to our letter dated 28 May 2018, we have now supplemented a draft Part 10 on transitional provisions into the proposals to amend the BELR and would like to seek the Association’s comments.

When the new rules to replace the current exposure limits in Part XV of the Banking Ordinance (“BO”) come into effect, there will likely be outstanding consents etc granted under this Part of the BO. Without specific arrangements, these consents etc will lose effect when the relevant BO provisions are repealed. Our proposed transitional arrangements for these consents etc are summarised below, which can be broadly divided into three categories:

- (i) Simple extension – This applies to the consolidation requirements under BO section 79A and the exemptions/consents/approvals granted under BO sections 81(6)(i)(ii), 81(7), 85, 87A and 88. The replacement rules for these BO provisions are largely the same. Therefore we propose to maintain the effect of these requirements and exemptions/consents/approvals under the new rules without restriction or qualification.
- (ii) Time limited extension – This applies to the exemptions granted under current BO section 80(2) (i.e. advances against shares of related companies) and section 81(6)(b)(ii) (acceptance of exposures covered by a letter of comfort). As set out in detail in paragraphs 41.1 and 42.1 of the attachment, the exemptions will last for one year only. While the replacement rules for the said BO sections are largely the same, we note that in many cases the exemptions were granted long ago and may no longer be necessary due to changes in circumstances. Therefore we take this opportunity to request AIs to critically review whether those exemptions are still relevant and required.

If the review of an AI suggests that certain exemptions are still necessary, it should discuss the case with its usual contact at the HKMA well in advance of the first anniversary of the commencement of the BELR. Otherwise the exemption will lose effect on that date. The HKMA will consider each case on its own merit.

- (iii) No extension – This applies to the exceptional approval granted under current BO section 83(4) and (4A). In the light of the proposed changes in the connected party exposure limits and their calculation method (e.g. introduction of offsetting), the exemptions granted in the past might no longer be necessary or at least require calibration. It may not be prudent to simply extend the effect of these exemptions under the new rules. Therefore AIs are requested to critically review their connected party exposures, measured based on the proposed provisions in Part 7 of the BELR, to determine whether any of the exemptions granted under section 83(4) and (4A) are required to be replaced. We would suggest AIs to complete their review and submit any applications for exemption to the HKMA by 31 October 2018. Any views on the feasibility of this timeline are welcome.

We have also taken this opportunity to make a few amendments to the previous proposals of the rules. Major changes are highlighted as follows:

- (i) To amend Rule 8 (Interpretation: equity exposure) to clarify our policy intent on the basis of consolidation;
- (ii) To insert a definition of “recognized stock market” in Part 7 in the same way as it is defined under the current BO section 2(1).

All the changes introduced in this round are shaded in yellow for ease of reference.

As we are working under a tight schedule to implement the new rules, I would be most grateful if the Association’s comments on the changes to the proposed rules included in this letter could reach us by 27 July 2018.

Should you have any questions, please contact Mr Andy Cheung on 2878-1022.

I am writing in similar terms to The Hong Kong Association of Banks.

Yours sincerely,

Daryl Ho
Executive Director (Banking Policy)

Encl

cc: FSTB (Attn: Ms Eureka Cheung)