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BANKING (AMENDMENT) BILL 2001

COMMITTEE STAGE

**Amendments to be moved by the Secretary
for Financial Services**

Clause

Amendment Proposed

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(a) In paragraph (a) (vi), in the definition of "manager",
by deleting paragraphs (a) and (b) and substituting -

"(a) subject to paragraph (c), in relation to
an authorized institution incorporated
in Hong Kong, means any individual,
other than a director or chief executive
of the institution, appointed by the
institution, or by a person acting for or
on behalf of or by an arrangement with
the institution, to be principally
responsible, either

alone or with others, for the conduct of any one or more of the affairs or business of the institution specified in the Fourteenth Schedule;

(b) subject to paragraph (c), in relation to an authorized institution incorporated outside Hong Kong, means any individual, other than a chief executive of the institution, appointed by the institution, or by a person acting for or on behalf of or by an arrangement with the institution, to be principally responsible, either alone or with others, for the conduct of any one or more of the affairs or business in Hong Kong of the institution specified in the Fourteenth Schedule;"

(b) In paragraph (c), by deleting the fullstop and substituting a semicolon.

(c) By adding -

"(d) by adding -

"(17) For the avoidance of doubt, it is hereby declared that any reference in this

Ordinance to the commission of an offence by every director, every chief executive and every manager of an authorized institution or other company (including any grammatical variations or cognate expressions of such reference) means that one or more than one of any such director, chief executive and manager may be prosecuted for the offence."."

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In the proposed section 72B -

- (a) in subsection (1) -
 - (i) by deleting "An" and substituting "Subject to subsections (1A) and (1B), an";
 - (ii) by adding "and the person" after "to the Monetary Authority";
 - (iii) in paragraph (iii), by adding "in the case of the notice to the Monetary Authority," before "such".
- (b) by adding -

"(1A) Subject to subsection (1B),

an authorized institution is not required to comply with subsection (1) in respect of a manager appointed bona fide on a temporary basis.

(1B) Where in respect of the appointment of a manager -

(a) an authorized institution has not complied with subsection (1) by virtue of subsection (1A); and

(b) the appointment subsequently ceases to be on a temporary basis,

then -

(c) subsection (1) shall, on the date on which that cesser occurs, apply in respect of the manager; and

(d) that date shall be the date mentioned in subsection (1) from which the period

mentioned in that
subsection shall be
calculated within which
the institution shall
comply with that
subsection in respect of
the manager."

21 By deleting "Section 126(2) is repealed and the following substituted
-" and substituting -

"Section 126 is amended -

- (a) in subsection (1), by repealing "all" (twice appearing);
- (b) by repealing subsection (2) and substituting -".