

LEGISLATIVE COUNCIL BRIEF

Banking Ordinance
(Amendment of Eleventh Schedule) Notice 2001

INTRODUCTION

The Banking Ordinance (Amendment of Eleventh Schedule) Notice 2001 made by the Financial Secretary will be gazetted on 8 June 2001.

BACKGROUND AND ARGUMENT

Amendment of Seventh Schedule

2. At the meeting on 5 June 2001, the Executive Council ADVISED and the Chief Executive ORDERED that the Banking Ordinance (Amendment of Seventh Schedule) Notice 2001 should be made. The Notice seeks to require the Monetary Authority (MA) to take into account share premium in assessing whether a company applying for authorization under the Banking Ordinance (the Ordinance) satisfies the capital requirement stipulated therein. A Legislative Council brief will be issued on 8 June 2001.

3. For consistency purposes, we suggest making corresponding amendments to the Eleventh Schedule to the Ordinance regarding share capital requirement for approval as money broker.

The Eleventh Schedule

4. Under section 118C(2) of the Ordinance, the MA shall refuse an application for approval as money broker if any one or more of the criteria set out in the Eleventh Schedule to the Ordinance applicable to or in relation to the applicant is not fulfilled.

5. Paragraph 5 of the Eleventh Schedule requires that for a company seeking approval as money broker, its paid-up share capital must not be less than \$5,000,000 or an equivalent amount in any other approved currency.

6. The rationale for amending the authorization criteria as set out in the Legislative Council brief also applies to paragraph 5 of the Eleventh Schedule. For consistency purposes, we suggest making corresponding amendments to the Eleventh Schedule.

THE NOTICE

7. Under section 135(3) of the Ordinance, the Financial Secretary may, by notice in the Gazette, amend the Eleventh Schedule.

8. The Banking Ordinance (Amendment of Eleventh Schedule) Notice 2001 at **Annex** will amend the Eleventh Schedule so that the balance in share premium account will be counted in assessing whether an applicant for approval as money broker meets the capital requirements specified in paragraph 5 of the Schedule.

PUBLIC CONSULTATION

9. We have consulted the Hong Kong Association of Banks, the DTC Association and the Hong Kong Foreign Exchange & Deposit Brokers' Association. They do not have any objection to the proposed amendments.

LEGISLATIVE TIMETABLE

10. The Banking Ordinance (Amendment of Eleventh Schedule) Notice 2001, being subsidiary legislation, will come into operation when it is published in the Gazette on 8 June 2001. The Notice will be tabled at the Legislative Council on 13 June 2001 for negative vetting.

PUBLICITY

11. The Monetary Authority will notify the Hong Kong Foreign Exchange and Deposit Brokers' Association and the approved money brokers of the amendments.

ENQUIRIES

12. Enquiries may be directed to Miss Clara Tang, Principal Assistant Secretary for Financial Services at 2529 0121.

Financial Services Bureau
8 June 2001

**BANKING ORDINANCE (AMENDMENT OF ELEVENTH SCHEDULE) NOTICE
2001**

(Made under section 135(3) of the Banking Ordinance (Cap. 155))

1. Minimum criteria for approval as money broker

The Eleventh Schedule to the Banking Ordinance (Cap. 155) is amended -

(a) in paragraph 1(1), by adding -

""share premium account" (股份溢價帳) -

(a) in relation to a company incorporated in Hong Kong, means a share premium account referred to in section 48B(1) of the Companies Ordinance (Cap. 32) maintained in respect of the company;

(b) in relation to a company incorporated outside Hong Kong, means an account having the same characteristics of a share premium account referred to in section 48B(1) of the Companies Ordinance (Cap. 32) irrespective of its name;"

(b) in paragraph 5, by repealing "its paid-up share capital" and substituting "the aggregate amount of its paid-

up share capital and the balance of its share premium account".

Financial Secretary

2001

Explanatory Note

This Notice amends the Eleventh Schedule to the Banking Ordinance (Cap. 155) so that share premium can be taken into account in assessing whether a company applying for approval as a money broker satisfies the capital requirements stipulated in paragraph 5 of that Schedule.