

LEGISLATIVE COUNCIL BRIEF

Banking Ordinance (Declaration under section 2(14)(d)(No. 2)) Notice 1997 (Repeal) Notice 2000

INTRODUCTION

The Monetary Authority (MA) publishes the Banking Ordinance (Declaration under section 2(14)(d)(No.2)) Notice 1997 (Repeal) Notice 2000 in the Gazette on 29 September 2000.

BACKGROUND AND ARGUMENT

2. Under section 2(14)(d) of the Banking Ordinance (Cap 155) (the Ordinance), MA may, by notice in the Gazette and subject to conditions that may be specified in the notice, declare a stored value card not to be a multi-purpose card for the purposes of the Ordinance. This has the effect of exempting the stored value card from the approval requirements of the Ordinance. The MA has issued a guideline under section 16(10) of the Ordinance on how it will exercise its functions in relation to the issue of multi-purpose stored value cards, including the criteria for approval and exemption of issue of multi-purpose stored value cards. In general, MA would grant exemption where the risk to the payment system and to cardholders from a particular card is slight.

3. In July 1997, MA considered and was satisfied that the stored value card called the Octopus card issued by Creative Star Limited (CSL) has met the criteria for exemption set out in the guideline. Accordingly, MA issued the Banking Ordinance (Declaration under section 2(14)(d)(No. 2)) Notice 1997 on 18 July 1997, which took effect on 28 August 1997. It provides that the core use of the Octopus card is for payment of services for the carriage of passengers provided by the shareholders of CSL. It also specifies the non-core use of the Octopus card.

4. After the launch of the Octopus card, CSL has applied under section 15(3) of the Ordinance to MA for authorization to carry on the business as a deposit-taking company (DTC) to enable it to extend the non-core use of the Octopus card. The DTC would be a special purpose vehicle whose principal business is the issue of multi-purpose card. Inter alia, given the extended uses of the card, hence volume of transaction and risk to payment system and cardholders, MA requires that the DTC should meet the authorization criteria in the Seventh Schedule to the Ordinance. The core use should relate to the business of the owners of the DTC i.e. fare payment of transport services provided by its shareholders. The non-core use should not exceed the core use in terms of the aggregate value of transactions and should increase the convenience for cardholders.

5. On 20 April 2000, MA authorized CSL to carry on the business as a DTC to issue the Octopus card as a multi-purpose card.

6. In view of the granting of a DTC authorization to CSL for issuing the Octopus card, the exemption given to the Octopus card under section 2(14)(d) of the Ordinance is no longer relevant, and therefore should be repealed.

THE NOTICE

7. This Notice will repeal the declaration of MA under section 2(14)(d) of the Banking Ordinance that the Octopus card is not a stored value card for the purpose of the Ordinance.

LEGISLATIVE TIMETABLE

8. The Notice is subsidiary legislation as stipulated in section 2(15)(d) of the Banking Ordinance. It will be tabled at Legislative Council on 4 October 2000 for negative vetting.

BACIS LAW IMPLICATIONS

9. The Department of Justice advises that the Notice is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

10. The Department of Justice advises that the Notice has no human rights implications.

BINDING EFFECT OF THE LEGISLATION

11. The amendment will not affect the current binding effect of the Banking Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

12. There are no financial and staffing implications for the Government.

PUBLIC CONSULTATION

13. Public consultation is not necessary for this technical amendment.

PUBLICITY

14. Publicity arrangement is not considered necessary. In April 2000, the Hong Kong Monetary Authority issued a press release on the authorization of CSL as a DTC to issue the Octopus card as a multi-purpose card.

ENQUIRY

15. Enquiries on this brief may be directed to Mr Edward Mak, Assistant Secretary for Financial Services at 2527 3974.