

立法會
Legislative Council

LC Paper No. LS105/01-02

**Paper for the House Committee Meeting
on 31 May 2002**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 24 May 2002**

Date of Tabling in LegCo : 29 May 2002

Amendment to be made by : 26 June 2002 (or the 1st meeting of LegCo in the next session if extended by resolution)

Banking Ordinance (Cap. 155)

**Banking (Amendment) Ordinance 2001 (32 of 2001) (Commencement)
Notice 2002 (L.N. 85)**

By this Notice given under section 1(2) of the Banking (Amendment) Ordinance 2001 (32 of 2001) (the Amendment Ordinance), the Acting Secretary for Financial Services has appointed 24 May 2002 as the day on which the Ordinance is to come into operation.

2. The Amendment Ordinance was enacted on 19 December 2001 after the related Bill had been scrutinized by a Bills Committee. The Amendment Ordinance seeks to improve the operation of the Banking Ordinance (Cap. 155) (the Ordinance) by providing for -

- (a) the enhancement of the Monetary Authority's supervision of the places of business of Authorized Institutions (AIs);
- (b) the regulation of advertising material for deposits issued through new technological means;
- (c) the recasting of the definition of "manager" with reference to managers' functions;
- (d) the addition of a continuing authorization requirement for AIs to maintain adequate system of control to ensure the fitness and properness of their managers;

- (e) the notification requirements in relation to the appointments of managers and the cessation of such appointments;
- (f) the permission for foreign banks, which are non-deposit-taking in their places of incorporation, to establish representative offices in Hong Kong;
- (f) the rationalization of the availability of the general defence under section 126 of the Ordinance; and
- (g) procedural matters incidental to the exercise of the Monetary Authority's powers under the Ordinance.

Members may wish to refer to the Report of the Bills Committee (LC Paper No. CB(1) 398/01-02) dated 29 November 2001 for further information.

3. Simultaneous with the commencement of the Amendment Ordinance, the Monetary Authority has published in the Gazette of 24 May 2002 for guidance of the industry the following :-

- (a) the Guideline on "System of Control for the Appointment of Managers" (G.N. 3025) under section 16(10); and
- (b) the Guideline on "Regulation of Advertising Material for Deposits issued over the Internet" (G.N. 3026) under section 92(6) of the Ordinance.

4. According to the Administration, no subsidiary legislation needs to be made for the implementation of the provisions of the Amendment Ordinance.

5. The legal and drafting aspects of the Notice are in order.

Prepared by

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