

**BANKING (AMENDMENT) ORDINANCE 2002****CONTENTS**

Section	Page
1. Short title and commencement .....	A1345
2. Interpretation .....	A1345
3. Functions of Monetary Authority .....	A1347
4. Register of authorized institutions, etc. ....	A1347
5. Section added	
58A. Disciplinary action in respect of relevant individuals .....	A1353
6. Section added	
59B. Notification by authorized institution of end of financial year, etc. ....	A1357
7. Returns and information to be submitted to the Monetary Authority .....	A1359
8. Section added	
63A. Auditor to report to Monetary Authority any matter which adversely affects financial position of authorized institution to material extent .....	A1359
9. Section added	
63B. Auditors of registered institutions to submit report to Monetary Authority in certain cases .....	A1361
10. Sections added	
71C. Executive officers of registered institutions require Monetary Authority's consent .....	A1361
71D. Appointment of executive officers .....	A1367
71E. Grant of provisional consent in relation to persons seeking Monetary Authority's consent under section 71C(1) to be executive officers .....	A1369
71F. Transitional provisions in relation to sections 71C and 71D in the case of certain registered institutions .....	A1371
11. Monetary Authority may require specified persons to submit information ....	A1371
12. Official secrecy .....	A1371
13. Appeals .....	A1373
14. Minimum criteria for authorization .....	A1377
15. Grounds for revocation of authorization .....	A1377

**HONG KONG SPECIAL ADMINISTRATIVE REGION**

ORDINANCE No. 6 OF 2002

L.S.TUNG Chee-hwa  
Chief Executive  
27 March 2002

An Ordinance to amend the Banking Ordinance.

[ ]

Enacted by the Legislative Council.

**1. Short title and commencement**

(1) This Ordinance may be cited as the Banking (Amendment) Ordinance 2002.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Financial Services by notice published in the Gazette.

**2. Interpretation**

Section 2(1) of the Banking Ordinance (Cap. 155) is amended by adding—  
““certificate of registration” (註冊證明書) means a certificate of registration—

(a) granted under section 119 of the Securities and Futures Ordinance (5 of 2002); and

(b) which is in force;

“executive officer” (主管人員), in relation to a registered institution, means an executive officer appointed under section 71D in respect of the institution;

“opportunity of being heard” (陳詞機會) means a reasonable opportunity of being heard;

“registered institution” (註冊機構) means an authorized institution—

(a) to which section 25(a) or 32 of Schedule 10 to the Securities and Futures Ordinance (5 of 2002) applies; or

(b) granted a certificate of registration;

“regulated activity” (受規管活動), in relation to a registered institution, means a regulated activity—

- (a) within the meaning of Schedule 1 to the Securities and Futures Ordinance (5 of 2002); and
- (b) in respect of which the institution is registered—
  - (i) to carry on the activity; and
  - (ii) by virtue of—
    - (A) in the case of an institution falling within paragraph (a) of the definition of “registered institution”, section 25(a) or 32 of Schedule 10 to the Securities and Futures Ordinance (5 of 2002);
    - (B) in any other case, the certificate of registration granted to it;

“Securities and Futures Commission” (證監會) means the Securities and Futures Commission referred to in the Securities and Futures Ordinance (5 of 2002);”.

### 3. Functions of Monetary Authority

Section 7(2) is amended—

- (a) in paragraph (e), by repealing “and” at the end;
- (b) in paragraph (f), by repealing the full stop and substituting “; and”;
- (c) by adding—
  - “(g) take all reasonable steps to ensure that any banking business, any business of taking deposits, or any other business, carried on by an authorized institution is carried on—
    - (i) with integrity, prudence and the appropriate degree of professional competence; and
    - (ii) in a manner which is not detrimental, or likely to be detrimental, to the interests of depositors or potential depositors.”.

### 4. Register of authorized institutions, etc.

Section 20 is amended—

- (a) in subsection (1)—
  - (i) in paragraph (e), by repealing “and” at the end;
  - (ii) by adding—
    - “(ea) in the case of a registered institution, and not later than 12 months after the commencement of this paragraph—

- (i) the name and business address of every relevant individual;
  - (ii) the capacity in which every relevant individual is engaged in relation to a regulated function in a regulated activity;
  - (iii) the date on which every relevant individual was first so engaged; and
  - (iv) such other particulars as the Monetary Authority thinks fit having regard to rules made under section 397 of the Securities and Futures Ordinance (5 of 2002) for the purposes of section 136(2) of that Ordinance; and”;
- (b) by repealing subsections (3) and (4) and substituting—
- “(3) The Monetary Authority may require an authorized institution (including an authorized institution seeking to be a registered institution) or local representative office to submit such information for the purposes of subsection (1) as he may reasonably require in order to maintain the register in so far as it relates to that authorized institution or local representative office, as the case may be, and such information shall be submitted within such period and in such manner as the Monetary Authority may require.
- (4) Where any information submitted to the Monetary Authority under subsection (3) changes subsequent to the submission, the authorized institution or local representative office which submitted the information shall give notice in writing to the Monetary Authority of such change—
- (a) subject to paragraph (b), not later than 21 days after such change takes place;
  - (b) where subsection (1)(ea) is applicable, within 7 business days after such change takes place.
- (4A) For the purposes of enabling any member of the public to ascertain whether a person he is dealing with is a relevant individual in relation to a registered institution and, if so, the capacity in which the relevant individual is engaged in relation to a regulated function in a regulated activity and the date on which the relevant individual was first so engaged, the information contained in the register under subsection (1)(ea) shall be made available to public inspection under subsection (5).

- (4B) Without prejudice to the generality of any other provisions of this section, the Monetary Authority shall cause the register, to the extent to which it relates to subsection (1)(*ea*), to be made available to public inspection in the form of an on-line record.”;
- (c) in subsection (5), by repealing “Any” and substituting “Subject to subsection (5A), any”;
- (d) by adding—  
“(5A) The fee mentioned in subsection (5) shall not be payable in the case of an inspection, or the obtaining of a copy or an extract, mentioned in that subsection where the register or document concerned is available to public inspection in the form of an on-line record.”;
- (e) in subsection (7), by repealing “a bank, deposit-taking company or restricted licence bank” and substituting “an authorized institution”;
- (f) in subsection (8)—  
(i) by repealing “bank, local representative office, deposit-taking company or restricted licence bank” and substituting “authorized institution or local representative office”;  
(ii) by repealing “bank, deposit-taking company or restricted licence bank” and substituting “authorized institution”;
- (g) by adding—  
“(9) It is hereby declared that—  
(a) the fact that an authorized institution falls within section 25(*a*) or 32 of Schedule 10 to the Securities and Futures Ordinance (5 of 2002) is not a ground for the institution to fail to comply with a requirement under subsection (3) seeking the submission of information for the purposes of subsection (1)(*ea*), and subsections (4), (7) and (8) shall be construed accordingly;  
(b) the fact that a relevant individual falls within section 26(*a*) or 33 of Schedule 10 to the Securities and Futures Ordinance (5 of 2002) shall not prohibit the inclusion in the register of any information referred to in subsection (1)(*ea*) relating to the individual.  
(10) In this section—  
“business day” (營業日) means any day other than—  
(a) a public holiday; or

(b) a gale warning day or a black rainstorm warning day as defined in section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1);

“regulated function” (受規管職能), in relation to a regulated activity carried on as a business by a registered institution, means any function performed for or on behalf of or by an arrangement with the institution relating to the regulated activity, other than work ordinarily performed by an accountant, clerk or cashier;

“relevant individual” (有關人士), in relation to a registered institution, means an individual who performs for or on behalf of or by an arrangement with the institution any regulated function in a regulated activity.”.

## 5. Section added

The following is added in Part X—

### “58A. Disciplinary action in respect of relevant individuals

(1) Where—

(a) a relevant individual is, or was at any time, guilty of misconduct; or

(b) the Monetary Authority is of the opinion that a relevant individual is not, or has ceased to be, a fit and proper person in his capacity as that type of relevant individual,

then the Monetary Authority may, after consultation with the Securities and Futures Commission—

(c) remove all or part of the individual’s relevant particulars from the register; or

(d) suspend all or part of the individual’s relevant particulars from the register for such period or until the occurrence of such event as the Monetary Authority specifies.

(2) Without limiting the generality of subsection (1) or the operation of any other provisions of this Ordinance, for the avoidance of doubt, it is hereby declared that the Monetary Authority may exercise his power under that subsection wholly or partly on the basis of information disclosed to the Monetary Authority by the Securities and Futures Commission, and whether or not the information arises from an investigation under section 182 of the Securities and Futures Ordinance (5 of 2002).

(3) The Monetary Authority shall not exercise his power under subsection (1) against a relevant individual without first giving the individual an opportunity of being heard.

(4) Where the Monetary Authority decides to exercise his power under subsection (1) against a relevant individual, the Monetary Authority shall inform the individual of his decision to do so by notice in writing served on him, and the notice shall include—

- (a) a statement of the reasons for which the decision is made;
- (b) the time at which the decision is to take effect; and
- (c) in so far as applicable, the duration and terms of the removal or suspension of particulars from the register to be imposed under the decision.

(5) Without prejudice to the exercise of any powers by the Securities and Futures Commission under the Securities and Futures Ordinance (5 of 2002), the Monetary Authority may make such recommendations to the Securities and Futures Commission concerning any relevant individual in respect of the exercise of the power under section 196 or 197 of that Ordinance as he considers appropriate.

(6) In this section—

“misconduct” (失當行為), in relation to a relevant individual, means—

- (a) a contravention of any of the relevant provisions, within the meaning of Schedule 1 to the Securities and Futures Ordinance (5 of 2002), which are applicable to the individual; or
- (b) an act or omission of the individual relating to the carrying on of any regulated activity—
  - (i) by the registered institution in relation to which the individual is a relevant individual; and
  - (ii) which, in the opinion of the Monetary Authority, is or is likely to be prejudicial to the interest of the investing public or to the public interest,

and “guilty of misconduct” (犯失當行為) shall be construed accordingly;

“relevant individual” (有關人士) means relevant individual within the meaning of section 20(10);

“relevant particulars” (有關資料), in relation to a relevant individual, means the information contained in the register maintained under section 20(1)(ea) in relation to the individual.

(7) For the purposes of paragraph (b) of the definition of “misconduct” in subsection (6), the Monetary Authority shall not form any opinion that any act or omission is or is likely to be prejudicial to the interest of the investing public or to the public interest, unless he has had regard to such of the provisions set out in any code of conduct published under section 169 of the Securities and Futures Ordinance (5 of 2002) or any code or guideline published under section 399 of that Ordinance as are in force at the time of occurrence of, and applicable in relation to, the act or omission.”.

## 6. Section added

The following is added—

### “59B. Notification by authorized institution of end of financial year, etc.

- (1) An authorized institution shall—
  - (a) in the case of an institution which was authorized before the commencement of this section, not later than 1 month after that commencement;
  - (b) in any other case, not later than 1 month after the date on which it was authorized,give notice in writing to the Monetary Authority of the date on which its financial year ends.
- (2) An authorized institution shall not—
  - (a) alter the date on which its financial year ends as specified in its notice under subsection (1) except with the approval under subsection (3)(a) of the Monetary Authority;
  - (b) have its financial year exceed 12 months except with the approval under subsection (3)(b) of the Monetary Authority.
- (3) The Monetary Authority may, on the application of an authorized institution, by notice in writing served on the institution—
  - (a) approve an alteration of the date on which its financial year ends subject to such conditions as the Monetary Authority thinks fit specified in the notice;
  - (b) approve a financial year of more than 12 months for the institution subject to such conditions as the Monetary Authority thinks fit specified in the notice.
- (4) Every director, every chief executive and every manager of an authorized institution which contravenes subsection (1) or (2), or any condition specified in a notice under subsection (3), commits an offence and is liable—



- (a) on conviction upon indictment to a fine at tier 7 and, in the case of a contravention of subsection (1), to a further fine at tier 3 for every day for which the institution fails to give the notice required under that subsection to the Monetary Authority; or
- (b) on summary conviction to a fine at tier 5 and, in the case of a contravention of subsection (1), to a further fine at tier 2 for every day for which the institution fails to give the notice required under that subsection to the Monetary Authority.”.

**7. Returns and information to be submitted to the Monetary Authority**

Section 63(3A)(b)(iii) and (3E) is repealed.

**8. Section added**

The following is added—

**“63A. Auditor to report to Monetary Authority any matter which adversely affects financial position of authorized institution to material extent**

(1) Where a person in the course of performing his duties as an auditor appointed under—

(a) section 59(2) or 63(3) or (3A); or

(b) section 131 of the Companies Ordinance (Cap. 32),

becomes aware of a matter which, in his opinion, adversely affects the financial position of an authorized institution to a material extent, he shall, as soon as is reasonably practicable after he becomes aware of the matter, submit to the Monetary Authority a report in writing on the nature of the matter and the reason why he is of that opinion.

(2) In relation to any authorized institution incorporated outside Hong Kong, subsection (1) shall only apply to its principal place of business in Hong Kong and its local branches, and shall do so as if that principal place of business and those branches were collectively a separate authorized institution.”.

**9. Section added**

The following is added—

**“63B. Auditors of registered institutions to submit report to Monetary Authority in certain cases**

Where a person in the course of performing his functions as an auditor—

- (a) appointed under—
  - (i) section 59(2) or 63(3) or (3A); or
  - (ii) section 131 of the Companies Ordinance (Cap. 32); and
- (b) in relation to a registered institution,

becomes aware of a matter that, in the opinion of the person, is a matter that constitutes on the part of the institution a failure to comply with any prescribed requirements within the meaning of section 157 of the Securities and Futures Ordinance (5 of 2002) (but excluding any requirements under section 149 of that Ordinance or of rules made under that section), then he shall, as soon as reasonably practicable after he becomes aware of the matter, submit to the Monetary Authority a report in writing on the matter.”.

**10. Sections added**

The following are added—

**“71C. Executive officers of registered institutions require Monetary Authority’s consent**

- (1) Subject to sections 71E and 71F, no person shall—
  - (a) become an executive officer of a registered institution without the consent in writing of the Monetary Authority;
  - (b) if he becomes such executive officer without such consent, act or continue to act as such executive officer without such consent;
  - (c) fail to comply with a condition attached under subsection (2)(b) or (9) as such condition is in force from time to time; or
  - (d) act or continue to act as such executive officer after such consent has been withdrawn under subsection (4).
- (2) The Monetary Authority—
  - (a) shall refuse to give consent under subsection (1) unless the Monetary Authority is satisfied that the person concerned—
    - (i) is a fit and proper person to be an executive officer of the registered institution concerned; and

- (ii) has sufficient authority within the institution to be such executive officer;
  - (b) may give consent under subsection (1) subject to such conditions as the Monetary Authority thinks proper to attach thereto.
- (3) Where the Monetary Authority gives consent, or refuses to give consent, under subsection (1), he shall as soon as is reasonably practicable thereafter give notice in writing—
- (a) in the case of the consent, to the person concerned and the registered institution concerned and specifying any conditions attached to the consent;
  - (b) in the case of the refusal, to the person concerned and the registered institution concerned and specifying his reasons.
- (4) Where—
- (a) an executive officer is, or was at any time, guilty of misconduct; or
  - (b) the Monetary Authority has ceased to be satisfied that an executive officer of a registered institution—
    - (i) is a fit and proper person to be such type of officer; or
    - (ii) has sufficient authority within the institution to be such officer,
- then the Monetary Authority may, after consultation with the Securities and Futures Commission, by notice in writing served on the officer and the institution—
- (c) withdraw the consent; or
  - (d) suspend the consent for such period or until the occurrence of such event as the Monetary Authority specifies.
- (5) Without limiting the generality of subsection (4) or the operation of any other provisions of this Ordinance, for the avoidance of doubt, it is hereby declared that the Monetary Authority may exercise his power under that subsection wholly or partly on the basis of information disclosed to the Monetary Authority by the Securities and Futures Commission, and whether or not the information arises from an investigation under section 182 of the Securities and Futures Ordinance (5 of 2002).
- (6) The Monetary Authority shall not exercise his power under subsection (4) against an executive officer without first giving the officer an opportunity of being heard.
- (7) Where the Monetary Authority decides to exercise his power under subsection (4) against an executive officer, the Monetary Authority shall inform the officer of his decision to do so by notice in writing served on him, and the notice shall include—
- (a) a statement of the reasons for which the decision is made;

- (b) the time at which the decision is to take effect; and
- (c) in so far as applicable, the duration and terms of the withdrawal or suspension of the consent to be imposed under the decision.

(8) Without prejudice to the exercise of any powers by the Securities and Futures Commission under the Securities and Futures Ordinance (5 of 2002), the Monetary Authority may make such recommendations to the Securities and Futures Commission concerning any executive officer in respect of the exercise of the power under section 196 or 197 of that Ordinance as he considers appropriate.

(9) Where the Monetary Authority—

- (a) has decided that he is satisfied that conditions need to be attached to a consent given under subsection (1), or that conditions attached to any such consent need to be amended;
- (b) has given to the executive officer not less than 7 days' advance notice of his decision, specifying his reasons, and accompanied by a copy of this section; and
- (c) has taken into account any written representation received by him from the executive officer,

the Monetary Authority may, by notice in writing served on the executive officer and the institution, attach conditions to the consent, or amend conditions attached to the consent, as the case may be.

(10) Any person who contravenes subsection (1) commits an offence and is liable—

- (a) on conviction upon indictment to a fine at tier 7 and to imprisonment for 2 years; or
- (b) on summary conviction to a fine at tier 5 and to imprisonment for 6 months,

and, in the case of a continuing offence, to a further fine at tier 2 for every day during which the offence continues.

(11) A person shall not be regarded for the purposes of subsection (1) as becoming an executive officer of a registered institution if he is appointed to serve as an executive officer of it—

- (a) immediately on the expiration of a previous term by him as an executive officer; and
- (b) in relation to the same regulated activity as he was such executive officer in that previous term.

(12) In this section—

“misconduct” (失當行為), in relation to an executive officer, means—

- (a) a contravention of any of the relevant provisions, within the meaning of Schedule 1 to the Securities and Futures Ordinance (5 of 2002), which are applicable to the officer;

- (b) a contravention of—
  - (i) any conditions attached under subsection (2)(b), or attached or amended under subsection (9), to the consent under subsection (1) which relates to the officer; or
  - (ii) any conditions attached or amended under section 71E(3) to the provisional consent under section 71E(1) which relates to the officer; or
- (c) an act or omission of the officer relating to the carrying on of any regulated activity—
  - (i) by the registered institution in relation to which the officer is an executive officer; and
  - (ii) which, in the opinion of the Monetary Authority, is or is likely to be prejudicial to the interest of the investing public or to the public interest,

and “guilty of misconduct” (犯失當行為) shall be construed accordingly.

(13) Where any registered institution is, or was at any time, guilty of misconduct within the meaning of paragraph (a), (b), (c) or (d) of the definition of “misconduct” in section 193(1) of the Securities and Futures Ordinance (5 of 2002) as a result of the commission of any conduct occurring with the consent or connivance of, or attributable to any neglect on the part of, an executive officer of the institution, the conduct shall also be regarded as misconduct on the part of the officer, and “guilty of misconduct” shall also be construed accordingly.

(14) For the purposes of paragraph (c) of the definition of “misconduct” in subsection (12), the Monetary Authority shall not form any opinion that any act or omission is or is likely to be prejudicial to the interest of the investing public or to the public interest, unless he has had regard to such of the provisions set out in any code of conduct published under section 169 of the Securities and Futures Ordinance (5 of 2002) or any code or guideline published under section 399 of that Ordinance as are in force at the time of occurrence of, and applicable in relation to, the act or omission.

#### **71D. Appointment of executive officers**

Subject to section 71F, every registered institution shall appoint not less than 2 executive officers—

- (a) in the case of an institution—
  - (i) incorporated in Hong Kong, to be responsible for directly supervising the conduct of each business conducted by the institution that constitutes a regulated activity;

- (ii) incorporated outside Hong Kong, to be responsible for directly supervising the conduct of each business in Hong Kong conducted by the institution that constitutes a regulated activity; and
- (b) each of whom shall be an individual.

**71E. Grant of provisional consent in relation to persons seeking Monetary Authority's consent under section 71C(1) to be executive officers**

(1) Where a person seeks the consent under section 71C(1) of the Monetary Authority to be an executive officer of an authorized institution, then the Monetary Authority may, upon the request of the person, and in his absolute discretion but subject to subsection (2), give provisional consent to the person to be such executive officer.

(2) The Monetary Authority shall refuse to give provisional consent under subsection (1) to a person unless the person satisfies the Monetary Authority that the giving of the consent will not prejudice the interests of—

- (a) depositors or potential depositors of the registered institution concerned; and
- (b) the investing public.

(3) The Monetary Authority may give provisional consent under subsection (1) to a person subject to such conditions as the Monetary Authority thinks proper to attach thereto, and the Monetary Authority may at any time, by notice in writing served on the person and the registered institution concerned, attach conditions to the consent or amend conditions attached to the consent, as the case may be.

(4) The attachment or amendment under subsection (3) of conditions shall take effect at the time of—

- (a) giving the provisional consent; or
- (b) service of the notice concerned under that subsection or at the time specified in the notice, whichever is the later,

as the case may be.

(5) A provisional consent given under subsection (1) to a person shall be deemed to be revoked when the person and the registered institution concerned are given notice under section 71C(3) of the Monetary Authority's decision to give, or refuse to give, consent under section 71C(1) for the person to be an executive officer of the institution.

(6) The Monetary Authority may, having regard to the interests of the depositors or potential depositors of the registered institution concerned or of the investing public, and in his absolute discretion, withdraw provisional consent given under subsection (1) to a person—

- (a) by giving notice in writing to the person and the institution withdrawing the consent;
- (b) with effect on such date as is specified in the notice, being a date not earlier than 7 days after the notice is so given.

**71F. Transitional provisions in relation to sections 71C and 71D in the case of certain registered institutions**

Neither section 71C nor section 71D shall apply to or in relation to a registered institution during the period within which the institution falls within paragraph (a) of the definition of “registered institution”.

**11. Monetary Authority may require specified persons to submit information**

Section 72A(1) is amended—

- (a) by adding—
  - “(aa) any person who is a relevant individual within the meaning of section 20(10);”;
- (b) in paragraph (b), by adding “or an executive officer of a registered institution” after “institution”;
- (c) in paragraph (d), by adding “or 71C(1)” after “71(1)”.

**12. Official secrecy**

Section 120 is amended—

- (a) in subsection (5), by adding—
  - “(fa) to the disclosure of information by the Monetary Authority to the Securities and Futures Commission relating to—
    - (i) the carrying on of a regulated activity by a registered institution; or
    - (ii) the carrying on by an authorized institution of the business of receiving or holding client assets, within the meaning of Schedule 1 to the Securities and Futures Ordinance (5 of 2002), of intermediaries, within the meaning of Schedule 1 to that Ordinance, of which the institution is an associated entity within the meaning of Schedule 1 to that Ordinance;”;
- (b) in subsection (5A)(b), by repealing “證券及期貨事務監察委員會” and substituting “證監會”;
- (c) in subsection (5C), by adding “, (fa)” after “(f)”.

### 13. Appeals

Section 132A is amended—

(a) in subsection (1)—

(i) in paragraph (d), by adding “, 59B(3)” after “51A(2)”;

(ii) by adding—

“(ea) any conditions to which an approval under section 59B(3) is made subject by the Monetary Authority under that section;”;

(b) by adding—

“(6) A person aggrieved by a specified decision of the Monetary Authority made in respect of the person may, by notice in writing given to the Securities and Futures Appeals Tribunal established by section 216 of the Securities and Futures Ordinance (5 of 2002), apply to the Tribunal for a review of the decision.

(7) The provisions of Part XI of the Securities and Futures Ordinance (5 of 2002) shall apply to and in relation to a notice under subsection (6) as they apply to and in relation to a notice under section 217(1) of that Ordinance.

(8) A specified decision, other than a specified decision mentioned in paragraph (c) of the definition of “specified decision” in subsection (10), shall take effect—

(a) where, prior to the expiration of the period of 21 days specified in section 217(3) of the Securities and Futures Ordinance (5 of 2002) as that within which an application for review of the decision shall be made, the person to whom the decision relates notifies the Monetary Authority that he will not make the application, at the time when he so notifies the Monetary Authority;

(b) subject to paragraph (a), where the person does not make an application for review of the decision within the period of 21 days specified in section 217(3) of the Securities and Futures Ordinance (5 of 2002) as that within which the application shall be made, at the time when the period so specified expires;  
or



- (c) where the person makes an application for review of the decision within the period of 21 days specified in section 217(3) of the Securities and Futures Ordinance (5 of 2002) as that within which the application shall be made—
- (i) where the decision is confirmed by the Securities and Futures Appeals Tribunal established by section 216 of that Ordinance, at the time when the decision is so confirmed;
  - (ii) where the decision is varied, or substituted by another decision, by that Tribunal, at the time when the decision is so varied or substituted, subject however to the terms of the variation or substitution; or
  - (iii) where the application is withdrawn, at the time when it is so withdrawn.

(9) Notwithstanding subsection (8) and any other provisions of this or any other Ordinance, the Monetary Authority may, in respect of a specified decision, where he considers it appropriate in the interest of the investing public or in the public interest to do so, specify in a notice served on the person to whom the decision relates any time, other than that at which the decision is apart from this subsection to take effect, as the time at which the decision is to take effect, in which case the decision takes effect at the time so specified.

(10) In this section—

“specified decision” (指明決定) means a decision of the Monetary Authority—

- (a) in a notice under section 58A(4) served on the person concerned;
- (b) to refuse to grant consent under section 71C(1), to attach pursuant to section 71C(2)(b) conditions to such consent, to withdraw or suspend under section 71C(4) such consent, to attach pursuant to section 71C(9) conditions to such consent or to amend pursuant to section 71C(9) any such conditions; or

- (c) to attach pursuant to section 71E(3) conditions to provisional consent given under section 71E(1) or to amend pursuant to section 71E(3) any such conditions.”.

#### **14. Minimum criteria for authorization**

The Seventh Schedule is amended—

- (a) in paragraph 4, by repealing “or chief executive” and substituting “, chief executive or executive officer”;
- (b) in paragraph 5(a), by adding “, or executive officer,” after “chief executive”;
- (c) in paragraph 12, by adding “(including any business which is not banking business or the business of taking deposits)” after “business”.

#### **15. Grounds for revocation of authorization**

The Eighth Schedule is amended by adding—

- “15A. A person has become or continues to be an executive officer of the authorized institution in contravention of section 71C.”.