

LN063E

L. N. 63 of 2002

Banking Ordinance (Amendment of Seventh Schedule) Notice 2002

(Made by the Chief Executive in Council under section 135(1) of the Banking Ordinance (Cap. 155))

1. Minimum criteria for authorization

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

(a) in paragraph 1(6), by repealing "13(b)(ii)(A)(VI) and (VII)" and substituting "13(a)(i)(F) and (G)";

(b) in paragraph 6(a)---

(i) by repealing "incorporated in Hong Kong";

(ii) by repealing "\$150,000,000" and substituting "\$300,000,000";

(c) by repealing paragraph 13 and substituting---

"13. Where the company is seeking authorization to carry on banking business in Hong Kong---

(a) it has (or, where subparagraph (b)(ii)(B) is applicable, will have)---

(i) total customer deposits of not less than \$3,000,000,000, or an equivalent amount in any other approved currency, excluding any deposits by---

(A) any authorized institution;

(B) any bank incorporated outside Hong Kong which is not an authorized institution;

(C) any controller or director of the company;

(D) any relative, within the meaning of section 79, of any such controller or director;

(E) any firm, partnership or body corporate in which the company, any controller or director of the company or any relative, within the meaning of section 79, of any such controller or director, is interested as director, partner, manager or agent;

(F) any holding company, subsidiary or associated company of the company;

(G) any subsidiary or associated company of any such holding company; and

(ii) total assets (less contra items) of not less than \$4,000,000,000 or an equivalent amount in any other approved currency; and

(b) in the case of---

(i) a company incorporated outside Hong Kong, either---

(A) there is, in the opinion of the Monetary Authority, an acceptable degree of reciprocity in respect of banks incorporated in Hong Kong seeking to carry on banking business in the place where that company is incorporated; or

(B) the place where that company is incorporated is, or is part of the territory of,

a member of the World Trade Organization;

(ii) a company incorporated in Hong Kong, either---

(A) it has been a deposit-taking company or a restricted licence bank (or any combination thereof) for not less than 3 continuous years; or

(B) it is a subsidiary of a bank incorporated outside Hong Kong or a subsidiary of a holding company of such bank and that---

(I) the bank has been authorized to carry on banking business in Hong Kong for not less than 3 continuous years; and

(II) the Monetary Authority is satisfied that the bank will transfer, and is capable of transferring, as soon as reasonably practicable after the company is authorized, from its principal place of business in Hong Kong or any local branch or local office (within the meaning of this Ordinance as amended by the Banking (Amendment) Ordinance 2001 (32 of 2001)), to the company amounts of customer deposits and assets not less than the respective amounts specified in subparagraph (a) (i) and (ii). "

2. Transitional

Where an authorized institution is a bank immediately before the commencement of section 1(b), then, for the purposes of paragraph 2 of the Eighth Schedule to the Banking Ordinance (Cap. 155)---

(a) paragraph 6(a) of the Seventh Schedule to that Ordinance as in force immediately before that commencement shall apply to the institution until the 2nd anniversary of that commencement; and

(b) paragraph 6(a) of the Seventh Schedule to that Ordinance as in force after that commencement shall not apply to the institution until the 2nd anniversary of that commencement.

CHENG Mei-sze, Maisie

Clerk to the Executive Council

Council Chamber

30 April 2002

Explanatory Note

This Notice amends the Seventh Schedule to the Banking Ordinance (Cap. 155) to---

(a) increase the minimum paid-up capital requirement from \$150 million to \$300 million for a company, whether incorporated in or outside Hong Kong, seeking authorization to carry on banking business in Hong Kong;

(b) unify the amounts of total customer deposits and total assets required to be held by an applicant company to not less than \$3,000,000,000 and \$4,000,000,000 respectively;

(c) delete the "closely associated and identified with Hong Kong" requirement for

an applicant company which is incorporated in Hong Kong;

(d) reduce the number of years of operation as a deposit-taking company or a restricted licence bank from not less than 10 continuous years to not less than 3 continuous years required of an applicant company;

(e) enable a company incorporated in Hong Kong which is a subsidiary of a bank incorporated outside Hong Kong to seek authorization based on the operations of, and the deposits and assets to be transferred from, that bank.