

LEGISLATIVE COUNCIL BRIEF

The Secretary for Financial Services and the Treasury submits the following note for Members' information :

<u>Title of the Note</u>	<u>Date of ExCo</u>	<u>Date of Gazette</u>
Banking (Specification of Public Sector Entities in Hong Kong) (Amendment) (No.2) Notice 2004	-	24 September 2004

2 October 2004

Financial Services and the Treasury Bureau

LEGISLATIVE COUNCIL BRIEF

Banking Ordinance (Chapter 155)

BANKING (SPECIFICATION OF PUBLIC SECTOR ENTITIES IN HONG KONG) (AMENDMENT) (NO.2) NOTICE 2004

INTRODUCTION

The Monetary Authority (MA) has published the Banking Ordinance (Specification of Public Sector Entities in Hong Kong) (Amendment) (No.2) Notice 2004, at Annex, in the Gazette to specify the newly established 香港五隧一橋有限公司 Hong Kong Link 2004 Limited (Hong Kong Link) as a public sector entity in Hong Kong under the Third Schedule to the Banking Ordinance (Third Schedule).

BACKGROUND

2. To ensure that banks have sufficient capital to provide a stable resource to absorb any losses arising from the risks in their business, section 98(1) of the Banking Ordinance (Cap. 155) imposes a capital adequacy ratio on authorized institutions incorporated in Hong Kong (AIs). The framework used to calculate the statutory capital adequacy ratio is set out in the Third Schedule to the Banking Ordinance. The Third Schedule covers, among other elements, a risk weighting framework for various types of bank assets. Under this framework, an AI may hold less capital for assets with lower risk weights than assets with higher risk weights.

3. Under the Third Schedule, claims on public sector entities carry a relatively lower risk weight in calculating the capital adequacy ratio reflecting public sector entities' relatively higher credit worthiness than ordinary corporate borrowers. This also applies to bonds issued by public sector entities and held by AIs. This allows public sector entities to borrow funds at a lower cost in the market. Moreover, in calculating the liquidity ratio under the Fourth Schedule to the Banking Ordinance, AIs can apply higher liquidity conversion factors to marketable debt securities issued or guaranteed by public sector entities.

4. Paragraph 1 of the Third Schedule contains a definition of “public sector entity in Hong Kong”. As stipulated in the definition, the MA can specify any body as a public sector entity in Hong Kong by a notice published in the Gazette.

5. Currently, public sector entities in Hong Kong include the MTR Corporation Limited, the Kowloon-Canton Railway Corporation, the Hong Kong Housing Authority, the Hospital Authority, the Airport Authority, The Hong Kong Mortgage Corporation Limited and the Urban Renewal Authority.

6. The MA published in the Gazette on 24 September 2004 the Banking (Specification of Public Sector Entities in Hong Kong) (Amendment) Notice 2004 (Repeal) Notice to repeal a similar notice (L.N.119 of 2004) published in the Gazette on 18 June 2004 which served to specify the Hong Kong Link as a public sector entity in Hong Kong. The notice (which has not yet come into effect) was repealed for technical reasons.

JUSTIFICATIONS

7. Hong Kong Link, a limited company incorporated in Hong Kong, is wholly owned by the Government acting through the Financial Secretary Incorporated. The objects of Hong Kong Link as set out in its Memorandum of Association include, among other things, acquiring by purchase or otherwise one or more notes, bonds or other financial instruments issued by the Government including the benefit of other arrangements entered into in connection therewith and borrowing and raising money in Hong Kong dollars or in any other currency or currencies and in such manner as Hong Kong Link thinks fit. According to Hong Kong Link, the company has been established for the sole purpose of issuing notes and bonds backed by statutory revenues from certain Government-owned tolled facilities, including the Cross-Harbour Tunnel, Shing Mun Tunnels, Tseung Kwan O Tunnel, Lion Rock Tunnel, Aberdeen Tunnel and Lantau Link.

8. The MA, after reviewing the objects of the company, the underlying arrangements for the note and bond issuance and Hong Kong Link’s relationship with the Government, is satisfied that Hong Kong Link is established solely for public purposes and has a high credit worthiness which justify the granting of the status of public sector entity in Hong Kong under the Third Schedule.

THE NOTICE

9. This Notice specifies Hong Kong Link as a public sector entity in Hong Kong under the Third Schedule to the Banking Ordinance (Cap. 155).

LEGISLATIVE TIMETABLE

10. The Notice was published in the Gazette on 24 September 2004 and will be tabled at the Legislative Council on 6 October 2004 for negative vetting. The Notice will take effect on 25 November 2004.

IMPLICATIONS OF THE PROPOSAL

11. The Notice is in conformity with the Basic Law, including the provisions concerning human rights. It has no financial or civil service, productivity, environmental or sustainability implications. The amendments will not affect the current binding effect of the existing provisions of the Banking Ordinance.

PUBLIC CONSULTATION

12. The Hong Kong Monetary Authority (HKMA) has consulted the Hong Kong Association of Banks and the Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies on the proposed specification and has received no objection.

PUBLICITY

13. The HKMA will issue a letter to all AIs and the industry associations informing them of the Notice.

ENQUIRIES

14. Inquiries on this brief may be directed to Ms. Rose Luk, Head (Banking Policy) of HKMA (telephone number: 2878 1638) or Mr. Clement Chan, Assistant Secretary for Financial Services and the Treasury (Financial Services) (telephone number: 2528 9076).

Financial Services Branch
Financial Services and the Treasury Bureau
2 October 2004

L.N. 149 of 2004**BANKING (SPECIFICATION OF PUBLIC SECTOR ENTITIES IN HONG KONG) (AMENDMENT) (NO. 2) NOTICE 2004**

(Made under the definition of “public sector entity in Hong Kong” in paragraph 1 of the Third Schedule to the Banking Ordinance (Cap. 155))

1. Commencement

This Notice shall come into operation on 25 November 2004.

2. Specification of 香港五隧一橋有限公司 Hong Kong Link 2004 Limited as a public sector entity in Hong Kong

香港五隧一橋有限公司 Hong Kong Link 2004 Limited is specified as a public sector entity in Hong Kong.

3. Specification of public sector entity in Hong Kong

Section 1 of the Banking (Specification of Public Sector Entities in Hong Kong) Notice (Cap. 155 sub. leg. E) is amended by adding—

“(5) 香港五隧一橋有限公司 Hong Kong Link 2004 Limited is specified as a public sector entity in Hong Kong.”.

Joseph C. K. YAM
Monetary Authority

16 September 2004

Explanatory Note

This Notice specifies 香港五隧一橋有限公司 Hong Kong Link 2004 Limited as a public sector entity in Hong Kong for the purpose of calculating the risk weighted exposure of an authorized institution. The method of calculating the risk weighted exposure is set out in paragraph 4 of the Third Schedule to the Banking Ordinance (Cap. 155). The Notice takes effect on 25 November 2004.