

## **LEGISLATIVE COUNCIL BRIEF**

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

<b><u>Title of the Note</u></b>	<b><u>Date of ExCo</u></b>	<b><u>Date of Gazette</u></b>
Banking (Specification of Public Sector Entities in Hong Kong) (Hong Kong Trade Development Council and Ocean Park Corporation) Notice	-	24 March 2006

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Financial Services and the Treasury Bureau

## **LEGISLATIVE COUNCIL BRIEF**

### **Banking Ordinance (Chapter 155)**

#### **BANKING (SPECIFICATION OF PUBLIC SECTOR ENTITIES IN HONG KONG) (HONG KONG TRADE DEVELOPMENT COUNCIL AND OCEAN PARK CORPORATION) NOTICE**

#### **INTRODUCTION**

The Monetary Authority (MA) has published the Banking (Specification of Public Sector Entities in Hong Kong) (Hong Kong Trade Development Council and Ocean Park Corporation) Notice, at Annex, in the Gazette to specify the Hong Kong Trade Development Council (HKTDC) and the Ocean Park Corporation (OPC) as public sector entities 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. 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 lending AI’s 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 enables 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 holdings of 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, the Urban Renewal Authority and 香港五隧一橋有限公司 Hong Kong Link 2004 Limited.

## **JUSTIFICATIONS**

### **Hong Kong Trade Development Council**

6. The HKTDC was established in 1966 under the Hong Kong Trade Development Council Ordinance (Cap.1114). It is entrusted with the functions (i) to promote, assist and develop Hong Kong’s trade with places outside Hong Kong, with particular reference to exports; and (ii) to make such recommendations to the Government as it sees fit in relation to any measures which it considers would achieve an increase in Hong Kong’s trade (section 4 of Cap.1114). Over the past ten years, the HKTDC has been able to maintain a healthy financial position with steady sources of fund and enjoy Government subventions. Moreover, there are statutory controls and safeguards on the HKTDC’s finance under Cap.1114, including restriction on its future financial commitments (section 8), requirement of the Chief Executive’s approval on its estimates of income and expenditure (section 22), requirement of tabling its reports of activities and audited accounts in the Legislative Council (section 25) and controls on investment of surplus funds (section 26).

### **Ocean Park Corporation**

7. The Ocean Park was officially opened in 1977. Its construction was funded by the Hong Kong Jockey Club (HKJC) on land provided by the Government at a nominal premium. On 1 July 1987, the Ocean Park ceased to be a subsidiary of the HKJC and became a statutory body incorporated under the Ocean Park Corporation Ordinance (Cap.388) to manage and control Ocean Park as a public recreational and educational park. The OPC has been able to make profit in the past few years except 2001 and 2003, and its accumulated surplus as at 30 June 2005 was \$464 million.

8. There are certain statutory controls and safeguards on the OPC's affairs and finance under Cap.388 which include (i) the OPC has to table its statement of accounts signed by the Chairman to the Legislative Council (sections 26 and 33), (ii) the Chief Executive may give directions in writing to the OPC in relation to the performance of its function or the exercise of its powers (section 38); and (iii) the Chief Executive may require information to be submitted with respect to property and affairs of the OPC (section 37).

9. The Government has demonstrated its support to the on-going developments of the Ocean Park. In 2002, it set up an interdepartmental "Task Force on Redevelopment of Ocean Park and Tourist Attractions in Aberdeen" ("the Task Force"), chaired by the Financial Secretary, to oversee the future development of the Ocean Park and the development of Aberdeen tourism node. In October 2005, the Executive Council endorsed the Redevelopment Plans of the Ocean Park with the estimated cost of \$5.55 billion proposed by a development group under the Task Force. In December 2005, the Finance Committee of the Legislative Council approved the Government's proposal to provide financial support to the OPC for 50% of the estimated \$5.55 billion redevelopment cost. The Government support is in the form of a subordinated loan of \$1,387.5 million from the Government to the OPC for a period of 25 years on a fixed interest rate of 5% per annum, and a guarantee of a \$1,387.5 million commercial loan of the OPC and interest (which is not expected to exceed \$700 million) arising therefrom.

10. Having regard to all the above factors, the MA considers that the HKTDC and the OPC are established for public purposes and have high credit worthiness, thereby making them suitable to be granted the status of public sector entities in Hong Kong under the Third Schedule.

## **THE NOTICE**

11. This Notice specifies the HKTDC and the OPC as public sector entities in Hong Kong under the Third Schedule to Cap. 155.

## **LEGISLATIVE TIMETABLE**

12. The Notice was published in the Gazette on 24 March 2006 and will be tabled at the Legislative Council on 29 March 2006 for negative vetting. The Notice will take effect on 20 May 2006.

## **IMPLICATIONS OF THE PROPOSAL**

13. 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**

14. 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**

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

## **ENQUIRIES**

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

Hong Kong Monetary Authority  
Financial Services and the Treasury Bureau  
24 March 2006

**L.N. 63 of 2006****BANKING (SPECIFICATION OF PUBLIC SECTOR ENTITIES IN HONG KONG) (HONG KONG TRADE DEVELOPMENT COUNCIL AND OCEAN PARK CORPORATION) NOTICE**

(Made by the Monetary Authority 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 20 May 2006.

**2. Specification of the Hong Kong Trade Development Council as a public sector entity in Hong Kong**

The Hong Kong Trade Development Council within the meaning of the Hong Kong Trade Development Council Ordinance (Cap. 1114) is specified as a public sector entity in Hong Kong.

**3. Specification of the Ocean Park Corporation as a public sector entity in Hong Kong**

The Ocean Park Corporation within the meaning of the Ocean Park Corporation Ordinance (Cap. 388) is specified as a public sector entity in Hong Kong.

**4. 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—

“(6) The Hong Kong Trade Development Council within the meaning of the Hong Kong Trade Development Council Ordinance (Cap. 1114) is specified as a public sector entity in Hong Kong.

(7) The Ocean Park Corporation within the meaning of the Ocean Park Corporation Ordinance (Cap. 388) is specified as a public sector entity in Hong Kong.”.

Joseph C. K. YAM  
Monetary Authority

20 March 2006

### **Explanatory Note**

This Notice specifies the Hong Kong Trade Development Council and the Ocean Park Corporation as public sector entities in Hong Kong for the purpose of calculating the risk weighted exposure of an authorized institution under the Banking Ordinance (Cap. 155).

2. The method of calculating the risk weighted exposure is set out in paragraph 4 of the Third Schedule to the Ordinance.