



香港存款保障委員會  
HONG KONG DEPOSIT  
PROTECTION BOARD

# **Strengthening the operation of the Deposit Protection Scheme**

## **Consultation Paper**

**August 2009**

# **Strengthening the operation of the Deposit Protection Scheme**

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## Introduction

1. In the light of developments in international and local financial markets since the outbreak of the global financial crisis, and experience gained from operating the Deposit Protection Scheme (DPS), the Board decided in mid-2008 to conduct a review of the DPS to enhance the effectiveness and efficiency of the scheme. The review was divided into two phases. The first phase focused on improving the protection provided by the DPS by enhancing its coverage, including the protection limit, the types of product, and the institutions covered. The review commenced in the fourth quarter of 2008 and was completed in the first quarter of 2009. Consultation on the recommendations identified in the first phase of the review commenced in late April 2009 and ended in late June 2009 (the consultation paper and report on the results of the consultation can be found on the Board's website at [www.dps.org.hk](http://www.dps.org.hk)).
2. To ensure the enhancements identified in both phases of the review can take effect at the same time, the Board started the second phase of the review in the second quarter of 2009 and completed the review in July 2009. This consultation paper contains the enhancements identified from the second phase of the review. The recommendations mainly comprise technical amendments to improve the effectiveness and efficiency of the DPS.

## **Strengthening the operation of the Deposit Protection Scheme**

3. While the enhancements identified in the first phase of the review are mainly related to the level and scope of protection, the second phase of the review identified a number of enhancements that can contribute to the effectiveness of the DPS by improving its payout efficiency and the transparency of its coverage.
4. Apart from level of protection and comprehensiveness of coverage, the transparency and payout efficiency of a deposit insurance scheme are also key determinants of its effectiveness. The good level of protection and comprehensive product coverage offered by a scheme must be effectively communicated to depositors for such features to be able to contribute to building confidence in the scheme. Yet, despite having a well known scheme, the hardship and uncertainty anticipated from a prolonged denial to access funds in a failed bank may prompt depositors to withdraw their deposits upon hearing rumours of a bank in difficulty if a long time is expected to be required by the scheme to compensate depositors.
5. The Board is well aware of the importance of enhancing the transparency of the DPS and raising its readiness to pay compensation. Scheme members are required under a set of statutory rules (Representation Rules) to make proper disclosures to customers on their DPS membership and whether their financial products are protected. Extensive publicity and educational activities have been undertaken by the Board to promote public awareness and understanding of the DPS. On the readiness of the DPS to payout, the Board has developed its own policies, procedures and computer system for payouts, and has retained a network of service providers (payout agents) that are committed to provide assistance at short notice. Scheme members are required by a set of statutory guidelines (Information System Guidelines) to be prepared to provide data required for payouts in specified formats and within specified time frames. The payout infrastructure developed as well as the operation of the payout agents are subject to regular rehearsals and simulations to ensure their readiness.
6. Notwithstanding the good progress achieved so far, based on the experience gained from operating the DPS and having learnt from the latest market developments, the Board finds that significant improvements to the transparency of the DPS and its readiness to payout can be achieved by making refinements to the legislation defining the scheme, that is, the Deposit Protection Scheme Ordinance (DPSO) (Cap.581).

7. The recommendations identified in the second phase of the review can be grouped under the following two areas:

- Processes for determining compensation (P.5-P.10)
- Representation arrangements (P.11-P.16)

Subject to the progress of the consultation, the Board intends to introduce the enhancements identified in the second phase of the review together with those concluded in the first phase, preferably before the end of 2010 so that the public will benefit from an enhanced DPS when the full deposit guarantee offered by the Government expires.

## **Consultation on the recommendations in this paper**

8. Members of the public are welcome to submit their comments to the Board before 17 October 2009 through any of the following channels:

By mail: Hong Kong Deposit Protection Board  
78<sup>th</sup> floor  
Two International Finance Centre  
8 Finance Street  
Central  
Hong Kong  
(Reference: DPS Review – 2<sup>nd</sup> Phase)

By fax : 2290 5050

By email: [dps\\_review@dps.org.hk](mailto:dps_review@dps.org.hk)

Website: [www.dps.org.hk](http://www.dps.org.hk)

9. In the interests of transparency, the Board may, as appropriate, reproduce, quote from, or summarise the submissions received during the consultation in the published report on the consultation. Where appropriate, the Board may attribute such reproductions of, quotations from, or summaries of, views received to the relevant organisations or individuals unless expressly requested in the submissions not to do so.

## Processes for determining compensation

10. Since the DPS commenced operation in 2006, great emphasis has been placed by the Board on ensuring that compensation under the DPS can be ascertained and paid to depositors expeditiously. The importance of being able to make fast payment is also exemplified in the proposals of reforming the UK deposit protection arrangements after the Northern Rock incident.
11. The Board started to conduct payout rehearsals in 2007 to test its policies, procedures, computer system for payouts and the functioning of its network of payout agents. The rehearsals have provided valuable insights into how the relevant processes can be enhanced to improve payout efficiency. Certain enhancements, however, can only be achieved by refining provisions in the DPSO governing how payout decisions should be made.

### *Proceeding of the Board*

12. According to the DPSO, the Board may transact its business at meetings or through the circulation of papers to members in Hong Kong. So far, this mode of decision making process has worked well in facilitating the Board to resolve and provide guidance on issues arising from the day-to-day operation of the DPS. The Board's experience from payout rehearsals, however, suggests that flexibility should be injected in the process to ensure the Board can respond promptly in a payout.
13. When compensation under the DPS is triggered, steers of the Board will need to be sought urgently to organise and implement a payout. Board meetings may need to be convened at short notice to deliberate on highly time-critical issues, for example, appointment of payout agents, and making interim payments. It is therefore important that the quorum for meetings can be met under such critical circumstances.
14. To help ensure the meeting of the quorum, the Board has already executed arrangements to allow members to participate in meetings through electronic means, for example, by telephone or video conferencing. Nevertheless, as the DPSO requires that members passing a resolution must be in Hong Kong, members participating in a meeting through electronic means but outside Hong Kong will not be counted in the quorum. Given the relatively small size of the Board (currently, there are eight members in the Board), the Board will not be able to pass any resolutions on implementing a payout if more than four members are absent from Hong Kong at the time.

15. Given the highly time-critical nature of the decisions to be made by the Board in a payout, it is recommended that the DPSO be amended to recognise overseas members (participating through electronic means) in the quorum of meetings of the Board.

*Determination of accrued interest*

16. According to the DPSO, interest accrued on protected deposits and liabilities of depositors to banks will be included in the calculation of compensation. Such interest should be accrued up to a “Quantification Date” as specified in the DPSO, which can be a date after the date of the triggering of the DPS (the DPS Trigger Date). The total amount of interest accrued on a deposit or customer liability position relevant to the determination of compensation would, therefore, comprise two portions; the amount accrued up to the DPS Trigger Date and the amount accrued from the DPS Trigger Date to the Quantification Date.
17. Currently, Scheme members are required by the Information System Guidelines issued by the Board to get ready for providing information to the Board for compensation determinations. The experience of the Board at payout rehearsals and simulation tests suggests that it may be practically difficult, if not impossible, for the Board to accurately and promptly determine the total amount of accrued interest on a position under certain circumstances. Flexibility should be injected into the compensation determination process to allow the Board to calculate the amount of accrued interest by approximation.
18. Different deposit products and customer liabilities of different banks may exhibit very different interest accrual patterns. For the simplest products, interest may be accrued daily, based on a fixed rate of interest. At the other end of the extreme, the interest to be accrued may be subject to a tiered structure, that is, different rates are applicable to portions exceeding different thresholds. In some cases, the effective rate on a position cannot be ascertained until the end of a reference period after taking into account a host of factors, for example, the total business relationship with a customer, during the period. If accrued interest is not readily carried in Scheme members’ systems, which is likely to be the case for products that accrue interest only once by the end of each interest period, the Board will need to study the interest accrual methodology underlying each transaction for determining the amount of accrued interest. This is unlikely to be practical in a payout situation.

19. The fact that the Quantification Date may fall on a date after the DPS Trigger Date may add considerable complexity to the interest accrual process. If a position expires after the DPS Trigger Date, but before the Quantification Date, the Board will need to ascertain the rate and method applicable to accruing interest from the expiry of the position up to the Quantification Date. This would require the Board to examine the customer's instruction on whether the transaction should be rolled over or terminated on expiry, and to which account the funds should be transferred. Again, this would not be cost justifiable nor time feasible, especially when a large number of positions is involved.
20. In a bank liquidation, the liquidator may encounter similar difficulties in ascertaining the amount of accrued interest on the positions of creditors of the bank. In such cases, the liquidator may seek powers from the court to estimate the amount of accrued interest using simplified methods for the purpose of adjudicating claims. For example, the calculation of post-liquidation interest for deposits in the failure of the Bank of Credit and Commerce Hong Kong Ltd. in 1991. Without the same flexibility, the Board is bound to determine the accrued interest accurately before its duties to compensate depositors can be fully discharged.
21. The need to apply simplified methods in the calculation of compensation to speed up payouts is also recognised by other deposit insurers. For example, the Canada Deposit Insurance Corporation makes use of a by-law to provide guidance in cases where interest cannot be calculated according to contractual terms because of incomplete information. The latest package of reform proposals issued by the UK authorities in June 2009 carries a recommendation to standardise the calculation of accrued interest on term deposits by terminating interest accrual on the date of default of the bank, rather than allowing interest to accrue up to the original maturity date of contracts.
22. Given that the amount of accrued interest generally accounts for a small portion of the compensation entitlement of a depositor, it may not be desirable to ascertain the precise amount of interest if the process turns out to be very complex and can unduly delay payment of compensation. It is therefore proposed that the Board be given the power to determine the amount of accrued interest on a position, if the Board considers:
  - (a) there is uncertainty as to the entire amount of accrued interest; or
  - (b) the time required to ascertain the entire amount of accrued interest in accordance with the DPSO would be so long as to unduly delay the payment of compensation to the depositor by the Board.

23. If the Board's estimation turns out to have underestimated the amount of accrued interest and give rise to a residual claim, extra resources will need to be incurred to attend to the claim. The administrative cost involved is likely to exceed the amount of interest underestimated in most of the cases. It would therefore be apparently more cost effective for the Board to adopt a "best rate" approach that marginally overestimates compensation due to accrued interest in order to eliminate any potential for residual claims. In the subsequent liquidation of the failed bank, the Board's estimations may also be accepted by the liquidator on cost effectiveness grounds. In this case, the DPS will not suffer any shortfall losses due to the overestimations. In the event the Board's estimates are not accepted by the liquidator, the DPS may suffer a small amount of shortfall losses which should still be justifiable compared to the cost of performing precise interest calculations or the cost incurred in handling residual claims.

*Valuation of annuities and future and contingent liabilities of depositors*

24. Based on the experience from simulation tests and payout rehearsals, the Board foresees that it will encounter difficulties in the valuation of annuities and future and contingent liabilities of depositors, similar to those in determining the amount of accrued interest on products with a complex interest accrual pattern.
25. According to the DPSO, the rules currently in force under the law of bankruptcy should be applied in determining the amount of liabilities of a person to the failed Scheme member out of annuities and future and contingent liabilities. This requirement can be potentially difficult to implement in some cases.
26. The existing rules for the valuation of annuities and future and contingent liabilities under the law of bankruptcy are not a readily ascertainable list or a body of product-specific rules that can be resorted to for the purpose of valuation. Rather, they are a diverse set of guiding principles derived from case law and provided for in various statutes. In the valuation of annuities and future and contingent liabilities, legal analysis will need to be conducted product by product or even contract by contract, to see how such principles should be applied. Although widely accepted principles may exist for commonly seen products, it can take a considerable amount of time and effort to ascertain the principles applicable to new and complex products, for example, the contingent liability of a depositor in a complex derivative contract before the maturity date of the contract. This is certainly not time nor cost feasible in a payout situation. Still, there is no guarantee the liquidator will adopt and apply the same principles in the subsequent liquidation process.

27. Like the power to calculate the amount of accrued interest by approximation, it is necessary for the Board to be able to estimate the value of annuities and future and contingent liabilities of depositors, which will be applied in setting off the protected deposits of the depositors for the purpose of compensation determination. It is therefore proposed that the Board be given the power to determine the value of an annuity or future or contingent liability of a depositor if the Board considers that:
- (a) there is uncertainty as to the value of an annuity or a future or contingent liability of a depositor; or
  - (b) the time required to ascertain the value of the annuity or future or contingent liability of a depositor in accordance with the DPSO would be so long as to unduly delay the payment of compensation to the depositor by the Board.
28. Unlike the estimation of accrued interest, which would generally have a minor impact on the compensation entitlement of a depositor, underestimating the liability of the depositor arising from an annuity or future or contingent liability may risk overestimating the net principal balance of protected deposits of the depositor that is subject to compensation. The Board will therefore generally tilt to the conservative side when estimating the value of an annuity or a future or contingent liability of a depositor to avoid underestimating the liabilities and, hence, overestimating the compensation entitlement. The depositor will therefore still be entitled to compensation in the liquidation of the failed bank in respect of the portion of priority claims adjudicated by the liquidator to be in excess of the amount paid by the Board.

*Amount of interim payment*

29. Another enhancement that can significantly improve efficiency of payouts is to articulate more clearly in the DPSO the power of the Board to apply differential treatment to depositors in making interim payments.
30. According to the DPSO, the Board may make an interim payment of an amount it considers appropriate to a depositor if there is uncertainty over the entire amount of his compensation entitlement or the time required to ascertain the amount, in accordance with the DPSO, would be so long as to unduly delay the payment of compensation to him.
31. The experience from the simulation tests and payout rehearsals indicates the Board can more cost effectively and efficiently manage the payout process by paying different classes of depositor different amounts of interim payment. For example, based on the findings at simulation tests, the Board can fully pay off about 30% of depositors in most simulated

cases with payments not exceeding HK\$10,000. This will greatly simplify the subsequent payout processes and save costs as the number of depositors to be attended to will be reduced significantly. However, this means applying differential treatment to depositors with different deposit balances: paying small depositors in full, but large depositors up to lower percentages.

32. Legal opinion obtained by the Board suggests the power to make different amounts of interim payment to different depositors could be interpreted as ancillary to the power of the Board to make interim payments. However, the interpretation could be subject to challenge on the grounds of unfair treatment. To remove the uncertainty, it is preferable for this power to be spelt out more clearly in the DPSO.

***Recommendations on processes for determining compensation***

*It is recommended that members of the Board outside Hong Kong be allowed to participate in Board meetings through electronic means.*

*It is recommended that the Board be given the power to determine the amount of accrued interest on a deposit or customer liability if the Board considers there is uncertainty over the amount of accrued interest, or that the time required to ascertain the amount in accordance with the DPSO would be so long as to unduly delay the payment of compensation.*

*It is recommended that the Board be given the power to determine the value of an annuity, or future or contingent liability of a depositor, if the Board considers there is uncertainty over the value, or that the time required to ascertain the value according to the DPSO would be so long as to unduly delay the payment of compensation.*

*It is recommended that the power of the Board to make interim payments to depositors by class and determine the amount of payment for each class be articulated more clearly in the DPSO.*

## Representation arrangements

33. In the light of the heightened public attention to the coverage of the DPS after the outbreak of the global financial crisis, the Board recommended in the first phase of the review of the DPS to bring secured deposits under the protection of the DPS. Apart from concern over the coverage, the Board noted that the crisis has brought about a clear public demand for strengthening the representation arrangements of the DPS.
34. Since the DPS commenced operation in 2006, Scheme members have been required by the Representation Rules to make disclosures about their DPS membership and the protection status of their financial products. Generally speaking, Scheme members have to disclose their membership status at their places of business and, under certain circumstances, in advertisements and on websites, and to make disclosure when a deposit is not protected by the DPS, that is, a negative disclosure.
35. Despite the fact that the existing representation arrangements have been in force for over two years, the comments observed by the Board indicate that some depositors are unaware whether they have been notified of the non-protected deposits held by them. There were also comments that positive disclosures, that is, disclosures confirming protection status, should be introduced to assist depositors to ascertain whether their deposits are protected.
36. After considering the experience of the Board in implementing the Representation Rules and in the light of the public opinions observed, the Board recommends strengthening the existing negative disclosures and introducing positive disclosures to further enhance the transparency of the coverage of the DPS.

### *Negative disclosures for non-protected deposits held under an account*

37. According to the Representation Rules, if a person maintains an account for the purpose of investing in a non-protected deposit product and a negative disclosure was made by the Scheme member in respect of the product when the account was opened, the Scheme member does not need to make a negative disclosure for any new transactions of the product conducted under the account.

38. Based on comments observed, the Board noted that some depositors are not aware of the protection status of the deposits held by them because the depositors fail to recall or notice the negative disclosures made by banks at the time their accounts were opened, or they might have missed the notification issued by banks to them at the inception of the DPS. As banks are not required to make further negative disclosures in respect of new transactions of the same product under the accounts, depositors would not be reminded that their deposits are not protected.
39. The Board agrees that it can sometimes be difficult for depositors to recall whether a negative disclosure was made by banks, especially for accounts opened a long time ago. To eliminate any potential for misunderstanding, it is recommended the arrangement of making a one-off negative disclosure on an account basis be abolished. Except in automatic rollovers that do not require further interaction between banks and their customers, a negative disclosure has to be made and acknowledgement from customers has to be obtained before any new transaction in a non-protected deposit is conducted. For automatic rollovers, the negative disclosure and acknowledgement process have to be completed before the first transaction accompanied by the rollover instruction was done.
40. With the removal of secured deposits from the list of non-protected deposits as proposed in the first phase of the review, only a few categories of deposits will remain unprotected by the DPS. The number of negative disclosures required to be made by Scheme members would be reduced substantially. Without the need to consider whether a deposit is pledged and hence falls outside the scope of the DPS, it will become relatively straightforward for Scheme members to identify the non-protected deposits for the application of the negative disclosure.

*Positive disclosures*

41. Although not a requirement in the current representation regime, positive disclosures have indeed been practised by many banks on a voluntary basis. Early this year, major retail banks reported receiving a large number of customer requests for written confirmation on the protection status of their deposits. The requests were possibly triggered by concerns over secured deposits held in integrated accounts falling outside the protection of the DPS without the knowledge of customers. So far, the banking industry has been very responsive to their customers' requests. Nevertheless, the standards adopted by different banks in responding to customers may not necessarily be the same.

42. In the light of a clear public preference for receiving positive disclosures, the Board sees that there are merits to formalise the ways in which positive disclosures are to be made by Scheme members. A standardised regime would provide better guidance to Scheme members on the scope and manner in which the disclosures should be made. The practising of unified standards by banks would also help promote acceptance of the disclosures by depositors.
43. Depositors seeking a positive disclosure mainly want to obtain an assurance in written form on whether that their deposits are covered by the DPS. When such an assurance cannot be found in the existing documentation, for example, account opening documents, term sheets or deposit confirmations, they will lodge a request to banks when they are in doubt. One possible arrangement to address depositors' needs is to add a positive disclosure in the documentation for new accounts or new deposits. Specifically, it is recommended that a positive disclosure be added to the documentation of new accounts under which protected deposits will be taken. For new protected deposits taken not under an account, the disclosure should be added in the documentation for the deposits, for example, in the term sheets or confirmation slips. For existing accounts or deposits, a one-off disclosure can be made in a regular account or deposit statement.
44. It is anticipated that the implementation of the proposed positive disclosure arrangements would greatly reduce the need for depositors to seek separate confirmation from banks. Nevertheless, when Scheme members are approached by depositors for confirmation, they should be obliged to adhere to certain minimum standards in responding to the requests, for example, the time for responding and the contents of the disclosure, to preserve the consistency of the representation regime.

*Prominence of the disclosure statements*

45. Another enhancement useful for improving the effectiveness of the representation regime is to improve the legibility of the disclosure statements. The Board noted that quite a large number of depositors indicated that they had failed to notice that their deposits are not protected because the relevant negative disclosure statements are embedded in the terms and conditions of the product, sometimes in small print that is difficult to read.

46. The Board is of the opinion that the protection status of a deposit is an important element of a deposit product and the disclosure on it should be presented prominently so that depositors can easily identify and make reference to it. Nevertheless, as the size and format of the account opening and deposit documentation of Scheme members may vary greatly from one member to another, the Board recognises it would be technically very difficult to impose requirements on the exact size and location of the relevant disclosures in such documents. Also, it would not be environmentally friendly to require the disclosure to be made on a separate page or sheet of paper.
47. With reference to the standards applicable to risk disclosure statements for investments covered by the Securities and Futures Ordinance (Cap.571), the Board recommends imposing a minimum standard on the size of both positive and negative disclosures made in relation to the DPS that they should be in print at least as large as other text in the document. In addition, where the contents of the document containing the disclosure are divided into chapters or sections, the disclosure must be covered under a separate chapter or section designated for describing the protection status of the account or deposit. Where an index page is available in the document, the section or chapter on deposit protection status must be identifiable in the index page for easy cross-reference by depositors.

#### *Structured deposits*

48. In the first phase of the review of the DPS, the Board concluded that it is not recommendable to bring structured deposits under the protection of the DPS. Though the Board is of the opinion that the continued exclusion of structured deposits would not materially affect the effectiveness of the DPS, it is noted that the unrestricted use of the term “structured deposit” by banks may create some undesirable effects on the clarity of the coverage of the DPS.
49. In simplified terms, structured deposits specified in the DPSO for exclusion from protection of the DPS include deposits repayable in a different currency and those with the amount repayable dependent on a reference value, or on the occurrence or non-occurrence of an event to a third party. The reference value can be the price or value of a financial product, commodity, foreign currency or property, the level of an index, a published rate of interest, or a specified range or the result of a mathematical operation of one or more published rates.

50. Under the Representation Rules, Scheme members are required to make negative disclosures in respect of financial products referred to as a deposit and meeting the definition of structured deposit in the DPSO. There is, however, no restriction on the application of the name “structured deposit” by banks to their financial products. Individual banks generally follow their own product nomenclatures in naming their products. The system can vary from one bank to another, and may not coincide with the DPSO in terms of classifying a product as a structured deposit.
51. Based on the Board’s experience in implementing the Representation Rules and handling public enquiries, the Board noted that the definition of structured deposit in the DPSO has been able to cover the large majority of structured deposits offered by banks. Only a few exceptions have been noted. Such are mainly deposits with an early redemption option, but bear no other features. As these deposits do not meet the definition of structured deposit in the DPSO, they are indeed protected by the DPS. The fact that such protected deposits are named structured deposit will not give rise to the risk of customers being misled into buying non-protected deposits. Nevertheless, if this phenomenon becomes more pervasive, it will seriously dampen the signaling effect of the term “structured deposit” in helping depositors to identify non-protected deposits, and erode confidence in the representation regime of the DPS. The same observation and concern was also reported by the Consumer Council in its reply to the consultation on the first phase of the review of the DPS.
52. In the light of the confusion reported by some depositors, the Board sees it desirable to instill a certain degree of discipline on the use of the term “structured deposit” to make such deposits an unambiguous class of non-protected deposits that can be easily recognizable by the public. Specifically, it is recommended that Scheme members be prohibited from referring to any new financial products as a structured deposit in marketing material or documentation of the products if they do not meet the definition of “structured deposit” in the DPSO. The potential for confusion will then gradually diminish as the existing transactions in such deposits mature.
53. Since structured deposits that are not captured by the definition of structured deposit in the DPSO are few in number, the proposed requirement should not have a significant impact on the operation of Scheme members. On the other hand, the enhanced clarity over the protection status of structured deposits should greatly reduce the need for depositors to seek ad hoc confirmation from banks. The implementation of the requirement should therefore be helpful to alleviate the burden on Scheme members to attend to such enquiries.

54. Under the powers conferred to it by the DPSO, the Board has promulgated the Representation Rules prescribing the manners in which Scheme members should disclose to the public whether their financial products are protected by the DPS. It is the intention of the Board to add the restriction on the use of the term “structured deposit” in the Representation Rules. There is, however, uncertainty over whether the existing powers in the DPSO backing the Rules can readily accommodate imposing restrictions on how Scheme members should name their financial products to avoid misunderstanding on the coverage of the DPS. If it is deemed necessary, the Board may initiate a change to the DPSO to broaden the relevant powers.

***Recommendations on representation arrangements***

*It is recommended that Scheme members be required to make negative disclosures and obtain customer acknowledgements on a transaction basis, except for automatic rollovers.*

*It is recommended that Scheme members be required to make positive disclosures on the protection status of their deposits. Disclosures for deposits covered by an account can be made on an account basis. For deposits not covered by an account, the disclosures have to be made on a transaction basis. For existing accounts or deposits, a one-off disclosure should be made.*

*It is recommended that Scheme members be obliged to respond to depositors’ requests for positive disclosure within a specified time frame and in a specified manner.*

*It is recommended that the positive and negative disclosures made by Scheme members be required to meet certain standards in terms of size and location to ensure they are sufficiently prominent and easily identifiable by depositors.*

*It is recommended that Scheme members be prohibited to call financial products not meeting the definition of structured deposit in the DPSO a structured deposit.*

## Summary of recommendations

### 1. Processes for determining compensation

- *It is recommended that members of the Board outside Hong Kong be allowed to participate in Board meetings through electronic means.*
- *It is recommended that the Board be given the power to determine the amount of accrued interest on a deposit or customer liability if the Board considers there is uncertainty over the amount of accrued interest, or that the time required to ascertain the amount in accordance with the DPSO would be so long as to unduly delay the payment of compensation.*
- *It is recommended that the Board be given the power to determine the value of an annuity, or future or contingent liability of a depositor, if the Board considers there is uncertainty over the value, or that the time required to ascertain the value according to the DPSO would be so long as to unduly delay the payment of compensation.*
- *It is recommended that the power of the Board to make interim payments to depositors by class and determine the amount of payment for each class be articulated more clearly in the DPSO.*

### 2. Representation arrangements

- *It is recommended that Scheme members be required to make negative disclosures and obtain customer acknowledgements on a transaction basis, except for automatic rollovers.*
- *It is recommended that Scheme members be required to make positive disclosures on the protection status of their deposits. Disclosures for deposits covered by an account can be made on an account basis. For deposits not covered by an account, the disclosures have to be made on a transaction basis. For existing accounts or deposits, a one-off disclosure should be made.*
- *It is recommended that Scheme members be obliged to respond to depositors' requests for positive disclosure within a specified time frame and in a specified manner.*

- *It is recommended that the positive and negative disclosures made by Scheme members be required to meet certain standards in terms of size and location to ensure they are sufficiently prominent and easily identifiable by depositors.*
- *It is recommended that Scheme members be prohibited to call financial products not meeting the definition of structured deposit in the DPSO a structured deposit.*