

**For information**

**Legislative Council  
Panel on Administration of Justice and Legal Services**

**Proposed Amendments to  
the Official Administrator's Accounts (Interest) Rules**

**PURPOSE**

This paper briefs Members on the Judiciary's proposal to update the interest rate adopted in the Official Administrator's Accounts (Interest) Rules (Cap. 10 sub. leg. D) for crediting interest to the estate under the Official Administrator's summary administration.

**BACKGROUND**

2. Under section 10 the Probate and Administration Ordinance (Cap. 10) ("PAO"), when a person dies intestate leaving an estate, the deceased's estate vests in the Official Administrator<sup>1</sup> who will administer the estate until he/she authorizes another person (e.g. the deceased's next-of-kin) to administer the estate.

3. If the total value of the estate does not exceed \$150,000, section 15 of the PAO provides that the Official Administrator may get in and administer the estate in a summary manner. Rule 3 of Cap. 10 sub. leg. D further provides that if the administration of the estate is completed within 3 months, the Official Administrator should pay no interest on moneys belonging to the estate. If the administration takes more than 3 months, the Official Administrator must credit to the estate interest on the basis of the prevailing Hong Kong Association of Banks (HKAB) rate for savings accounts.

4. As a result of the deregulation of interest rates in 2001, interest rates on all types of deposits, including savings account deposits, are determined by competitive market forces rather than by the HKAB. As an interim measure, the Judiciary has been using the interest rate for

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<sup>1</sup> Section 9 of the PAO provides that the Registrar of the High Court shall be the ex officio Official Administrator.

savings accounts of the Hong Kong and Shanghai Banking Corporation Limited.

## **FINANCIAL AND MANPOWER IMPLICATIONS**

5. As the proposal involves the replacement of the interest basis only, it will not have significant financial and manpower implications for the Judiciary.

## **PROPOSED LEGISLATIVE AMENDMENTS**

6. The Judiciary proposes to replace the reference to the HKAB rate in rule 3 of Cap. 10 sub. leg. D by the average savings deposit rate published by the Hong Kong Monetary Authority (HKMA) on a monthly basis<sup>2</sup>. At present, the HKMA compiles such average rates on the basis of the interest rates quoted by the leading licensed banks.

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7. A marked-up version of the proposed legislative amendments is at **Annex**. The Chief Justice may amend these rules under section 72 of the PAO.

## **CONSULTATION**

8. We have consulted the Hong Kong Bar Association and the Law Society of Hong Kong. They have no comments on the proposed legislative amendments.

## **WAY FORWARD**

9. Members are invited to note the content of this paper. We intend to invite the Chief Justice to introduce amendments to the rule concerned which will then be tabled at the Legislative Council for negative vetting as soon as practicable.

**Judiciary Administration**  
**June 2013**

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<sup>2</sup> Now the rates are published in the HKMA's Monthly Statistical Bulletin.

**Marked-up Version of the Proposed Amendments to  
the Official Administrator's Accounts (Interest) Rules  
(Cap 10 sub. leg. D)**

**Rule 3 Estates not exceeding \$150,000**

(1) Where the Official Administrator is administering an estate the total value of which does not exceed \$150,000, and the administration of that estate is not completed within 3 months of the relevant grant of probate or administration or of the Official Administrator's decision to administer the estate in a summary manner, ~~he shall credit to the estate interest at the prevailing Hong Kong Association of Banks rate for savings accounts, the Official Administrator must credit to the estate interest~~ on all moneys in ~~his~~ the Official Administrator's possession ~~which that~~ belong to ~~it~~ the estate. (76 of 1980 s. 24; L.N. 279 of 1983)

(1A) For the purposes of paragraph (1)—

(a) the rate of interest to be applied is the average interest rate on Hong Kong dollar savings deposits published by the Hong Kong Monetary Authority from time to time;

(b) different such rates apply to different periods, and each such rate is to have effect from the day it is published until the day immediately before a different such rate is published; and

(c) no interest is to be computed or credited on a fraction of \$1.

(2) Where the total value of an estate does not exceed \$150,000 and the administration of the estate by the Official Administrator is completed within 3 months, no interest shall be paid by the Official Administrator on moneys belonging to the estate.

~~(3) No interest shall be computed or paid under paragraph (1) on a fraction of one dollar.~~

(L.N. 126 of 1997)