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A BILL

To

Provide for the vesting and facilitating the vesting in The Fuji Bank, Limited of certain undertakings of The Dai-Ichi Kangyo Bank, Limited and The Industrial Bank of Japan, Limited; and for other related purposes.

Preamble

Whereas---

(a) The Dai-Ichi Kangyo Bank, Limited (hereinafter called "DKB") is a corporation organized under the laws of Japan having its registered place of business at Tokyo and is a bank licensed under the Banking Ordinance (Cap. 155) carrying on the business of banking in Hong Kong and elsewhere;

(b) The Fuji Bank, Limited (hereinafter called "Corporate Business Bank") is a corporation organized under the laws of Japan having its registered place of business at Tokyo and is a bank licensed under the Banking Ordinance (Cap. 155) carrying on the business of banking in Hong Kong and elsewhere;

(c) The Industrial Bank of Japan, Limited (hereinafter called "IBJ") is a corporation organized under the laws of Japan having its registered place of business at Tokyo and is a bank licensed under the Banking Ordinance (Cap. 155) carrying on the business of banking in Hong Kong and elsewhere;

(d) each of DKB, Corporate Business Bank and IBJ has a branch in Hong Kong;

(e) Mizuho Holdings, Inc. (hereinafter called "Mizuho Holdings") is a bank and long-term credit bank holding corporation organized under the laws of Japan;

(f) Corporate Business Bank and the consolidating banks are all wholly owned subsidiaries of Mizuho Holdings and are all members of the Mizuho Financial Group;

(g) a consolidation agreement dated 22 December 1999 and entered into by DKB, Corporate Business Bank and IBJ has provided for the businesses carried on by DKB, Corporate Business Bank and IBJ to be reorganized and consolidated according to customer segments and business functions into two banks, to be named Mizuho Corporate Bank, Ltd. and Mizuho Bank, Ltd. respectively, and such reorganization and consolidation pursuant to the consolidation agreement will be effected by corporate split and merger procedures under the laws of Japan which provide for the block transfers of assets and liabilities by operation of the laws of Japan;

(h) for the better conduct of the businesses of the Mizuho Financial Group, it is expedient that the respective undertakings of the Hong Kong branches of the consolidating banks be succeeded to by,

and consolidated in, Corporate Business Bank and that such consolidation should be

effected by means of a transfer and vesting of the undertakings of DKB Hong Kong Branch and IBJ Hong Kong Branch to and in Corporate Business Bank;

(i) on the appointed day, IBJ will be merged into Corporate Business Bank and will be dissolved under the provisions of the Law Concerning Merger and Conversion of Financial Institutions of Japan and the Commercial Code of Japan, and the name of Corporate Business Bank will be changed to Mizuho Corporate Bank, Ltd.;

(j) on the appointed day, the name of DKB will be changed to Mizuho Bank, Ltd., and DKB will cease to carry on the business of banking in Hong Kong;

(k) in view of the extent of the contractual and other legal relationships affecting the conduct of the undertakings of Corporate Business Bank Hong Kong Branch and the Hong Kong branches of the consolidating banks, it is expedient to make provision to facilitate such consolidation without interference with the conduct and continuity of the respective businesses of Corporate Business Bank Hong Kong Branch and the Hong Kong branches of the consolidating banks.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Mizuho Corporate Bank, Ltd. (Hong Kong Consolidation) Ordinance.

2. Interpretation

(1) In this Ordinance, unless the subject or context otherwise requires---
"appointed day" (指定日期) means such day as may be appointed and notified pursuant to section 3, being the day on which, inter alia, the merger of IBJ into Corporate Business Bank and the change in the name of Corporate Business Bank to Mizuho Corporate Bank, Ltd. are to be effected under the laws of Japan pursuant to the consolidation agreement;

"books and records" (簿冊及紀錄) means any document, record (including an electronic record), report, letter or register of whatsoever nature kept by or on behalf of a person including without limitation balance sheets and any ledger, day book, cash book, account book or bank book;

"consolidating bank in Hong Kong" (香港合併銀行) means a consolidating bank but only in so far as the matter in question relates to its consolidating branch, and a reference to "the consolidating banks in Hong Kong" is a reference to both of the consolidating banks in Hong Kong;

"the consolidating banks" (各合併銀行) means DKB and IBJ, and a reference to a "consolidating bank" is a reference to one of the consolidating banks;

"the consolidating branches" (各合併分行) means DKB Hong Kong Branch and IBJ Hong Kong Branch, and a reference to a "consolidating branch" is a reference to one of the consolidating branches;

"consolidation agreement" (合併協議) means the consolidation agreement dated 22 December 1999, governed by the laws of Japan and entered into by DKB, Corporate Business Bank and IBI in relation, inter alia, to the reorganization and consolidation of the businesses carried on by DKB, Corporate Business Bank and IBI according to customer segments and business functions (as amended or supplemented from time to time, including by implementing documents and agreements from time to time entered into);

"Corporate Business Bank" (實業商務銀行) means The Fuji Bank, Limited, a corporation organized under the laws of Japan, which name will be changed to Mizuho Corporate Bank, Ltd. on the appointed day;

"Corporate Business Bank Hong Kong Branch" (實業商務銀行香港分行) means---

(a) the business carried on by Corporate Business Bank in or from its branch in Hong Kong; and

(b) all existing property and liabilities of the Hong Kong branch of Corporate Business Bank of whatsoever nature as recorded in or created by any of the books and records of Corporate Business Bank and any other property and liabilities of the Hong Kong branch of Corporate Business Bank related thereto;

"customer" (客戶) means any person having a banking account, a loan account or other dealing, transaction, agreement or arrangement with Corporate Business Bank Hong Kong Branch or, as the case may be, a consolidating bank in Hong Kong;

"data protection principles" (保障資料原則) means any of the data protection principles set out in Schedule 1 to the Personal Data (Privacy) Ordinance (Cap. 486);

"DKB" (第一勸業) means The Dai-Ichi Kangyo Bank, Limited, a corporation organized under the laws of Japan, which name will be changed to Mizuho Bank, Ltd. on the appointed day;

"DKB Hong Kong Branch" (第一勸業香港分行) means---

(a) the business carried on by DKB in or from its branch in Hong Kong; and

(b) all existing property and liabilities of the Hong Kong branch of DKB of whatsoever nature as recorded in or created by any of the books and records of DKB and any other property and liabilities of the Hong Kong branch of DKB related thereto,

but, for avoidance of doubt, excluding the rights and liabilities of DKB under the consolidation agreement (in so far as such rights and liabilities relate to DKB Hong Kong Branch);

"electronic record" (電子紀錄) has the meaning assigned to it by section 2(1) of the Electronic Transactions Ordinance (Cap. 553);

"existing" (現有) means existing, outstanding or in force immediately before the appointed day;

"the Hong Kong branches of the consolidating banks" (各合併銀行的香港分行) means---

(a) DKB Hong Kong Branch; and

(b) IBJ Hong Kong Branch;

"IBJ" (日本興業) means The Industrial Bank of Japan, Limited, a corporation organized under the laws of Japan;

"IBJ Hong Kong Branch" (日本興業香港分行) means---

(a) the business carried on by IBJ in or from its branch in Hong Kong; and

(b) all existing property and liabilities of the Hong Kong branch of IBJ of whatsoever nature as recorded in or created by any of the books and records of IBJ and any other property and liabilities of the Hong Kong branch of IBJ related thereto,

but, for avoidance of doubt, excluding the rights and liabilities of IBJ under the consolidation agreement (in so far as such rights and liabilities relate to IBJ Hong Kong Branch);

"liabilities" (法律責任) includes duties and obligations of every description (whether present or future, actual or contingent);

"Mizuho Financial Group" (瑞穗金融集團) means Mizuho Holdings and its subsidiaries;

"Mizuho Holdings" (瑞穗控股) means Mizuho Holdings, Inc., a corporation organized under the laws of Japan;

"Privacy Commissioner" (私隱專員) means the Privacy Commissioner for Personal Data established under section 5(1) of the Personal Data (Privacy) Ordinance (Cap. 486);

"property" (財產) means property and assets of every description wheresoever situate and rights of every description (whether present or future, actual or contingent), and includes property held on trust or in a fiduciary capacity and security interests, benefits and powers of every description;

"security interest" (抵押權益) includes a mortgage or charge (whether legal or equitable and including any sub-mortgage), debenture, bill of exchange, promissory note, guarantee, lien, pledge (whether actual or constructive), hypothecation, assignment by way of security, indemnity, right of set-off, flawed asset arrangement, agreement or undertaking (whether in writing or not) or other means (in each case made, granted, arising or subsisting under any applicable law) of securing payment or discharge of a debt or liability (whether present or future, actual or contingent), whether or not that interest is evidenced in writing;

"subsidiary" (附屬公司) has the meaning assigned to it by section 2 of the Companies Ordinance (Cap. 32);

"will" (遺囑) includes a codicil and any other testamentary writing.

(2) Any reference in the definitions of "DKB Hong Kong Branch", "Corporate Business Bank Hong Kong Branch", "IBJ Hong Kong Branch" and "the Hong Kong branches of the consolidating banks" to a branch or, as the case may be, branches is a reference to all places at which DKB or Corporate Business Bank or IBJ or the relevant

consolidating bank or, as the case may be, the relevant consolidating banks carry on business in Hong Kong.

(3) Subject to any provision of this Ordinance to the contrary effect, any reference in this Ordinance to property or liabilities of Corporate Business Bank, a consolidating bank, a consolidating bank in Hong Kong or a consolidating branch is a reference to property or liabilities to which Corporate Business Bank, the consolidating bank, consolidating bank in Hong Kong or consolidating branch, as the case may be, is for the time being entitled or subject (whether beneficially or in any fiduciary capacity), wherever such property or liabilities are situated or arise and whether or not capable of being transferred or assigned by Corporate Business Bank, the consolidating bank, consolidating bank in Hong Kong or consolidating branch, as the case may be, and whether or not Corporate Business Bank, the consolidating bank, consolidating bank in Hong Kong or consolidating branch, as the case may be, is entitled to such property or subject to such liabilities under the laws of Hong Kong or under the laws of any country, territory or place outside Hong Kong.

(4) Any body politic or corporate and any other person or persons whose rights are affected by any of the provisions of this Ordinance shall be deemed to be mentioned herein.

(5) Subject to any provision of this Ordinance to the contrary effect, any reference in this Ordinance to Corporate Business Bank is a reference to Mizuho Corporate Bank, Ltd. from and after the appointed day.

3. Notice of appointed day

Corporate Business Bank shall give notice in the Gazette of the day expected to be the appointed day save that, in the event that such day proves not to be the appointed day for any reason, Corporate Business Bank shall give notice in the Gazette to that effect and shall again give notice in the Gazette of the next day expected to be the appointed day or, as the case may be, Corporate Business Bank shall give notice in the Gazette of the day which was the appointed day.

4. Vesting and recognition of vesting of the consolidating branches

(1) On the appointed day---

- (a) DKB Hong Kong Branch shall by virtue of this Ordinance and without further act or deed be transferred to, and vest in, Corporate Business Bank to the intent that Corporate Business Bank shall succeed to DKB Hong Kong Branch as if in all respects Corporate Business Bank were the same person in law as DKB; and
- (b) IBJ Hong Kong Branch shall by virtue of this Ordinance and without further act or deed be and shall be deemed for the purpose of Hong Kong law to be transferred to, and vest in, Corporate Business Bank to the intent that Corporate Business Bank

shall succeed to IBJ Hong Kong Branch as if in all respects Corporate Business Bank were the same person in law as IBJ.

(2) In relation to any matter referred to in subsection (1), subsection (1) shall be deemed to have effect for the purposes of Hong Kong law notwithstanding that neither of the consolidating banks is a company incorporated in Hong Kong.

(3) Where the transfer and vesting of any property or liabilities forming part of a consolidating branch is governed otherwise than by the laws of Hong Kong, the consolidating bank in question shall, if Corporate Business Bank so requires, as soon as is practicable after the appointed day, take all necessary steps for the purpose of securing the effective transfer and vesting thereof to and in Corporate Business Bank and, pending such transfer and vesting, shall (as regards any property governed otherwise than by the laws of Hong Kong) hold such property in trust absolutely for Corporate Business Bank.

5. Trust property and wills

(1) Any property vested or deemed to be vested in Corporate Business Bank by virtue of this Ordinance which immediately before the appointed day was held by a consolidating bank in Hong Kong, whether alone or jointly with any other person, as trustee or custodian trustee of any trust deed, settlement, covenant, agreement or will (whether originally so appointed or not, and whether appointed under hand or seal, or by order of any court or otherwise), or as executor of the will, or administrator of the estate, of a deceased person or as judicial trustee appointed by order of any court, or in any other fiduciary capacity, shall, on and from the appointed day, be held by Corporate Business Bank alone or, as the case may be, jointly with such other person, in the same capacity upon the trusts, and with and subject to the powers, provisions and liabilities, applicable thereto respectively.

(2) Any existing instrument or order of any court under or by virtue of which any property became vested in a consolidating bank in Hong Kong in any such fiduciary capacity as is referred to in subsection (1) (including in the case of a will any grant of probate thereof), and any provision in such instrument or order, or any existing contract or arrangement, for the payment to, or retention by, a consolidating bank in Hong Kong of remuneration for its services in any such fiduciary capacity, shall, on and from the appointed day, be construed and have effect, so far as the context permits, as if for any reference therein to the consolidating bank in Hong Kong other than a reference (however worded and whether express or implied) to terms and conditions of, or to a scale of fees of, the consolidating bank in Hong Kong, there were substituted a reference to Corporate Business Bank provided always that this subsection shall not prevent Corporate Business Bank from varying the remuneration or scale of fees payable in accordance with the terms of the relevant

instrument or order.

(3) Any will made before the appointed day which has not been proved in Hong Kong before the appointed day, and any will made on or after the appointed day, being a will which appoints a consolidating bank in Hong Kong to be an executor, trustee or recipient of any property as trustee, shall, on and from the appointed day, be construed and have effect as if for any reference therein to such bank as such executor, trustee or recipient or otherwise in connection with such appointment, not being a reference (however worded and whether express or implied) to terms and conditions of, or to a scale of fees of, such bank, there were substituted a reference to Corporate Business Bank.

(4) No testamentary gift shall be deemed by reason only of the operation of any of the provisions of this Ordinance.

6. Supplementary provisions

Without prejudice to the generality of any other provision of this Ordinance but subject to any provision of this Ordinance to the contrary effect, the following provisions of this section shall have effect---

(a) All existing contracts, agreements, insurance policies, options, novations, certificates, awards, land grants, conveyances, deeds, leases, licences, notices, permits, guarantees, documents granting or comprising any security interest, bonds, indemnities, mandates, instructions and other instruments and undertakings entered into by, made with, given to or by or addressed to a consolidating bank in Hong Kong (whether alone or with any other person and whether as principal or agent and whether in writing or not) shall be construed and have effect on and from the appointed day as if---

(i) Corporate Business Bank had been a party thereto instead of such consolidating bank in Hong Kong;

(ii) for any reference (however worded and whether express or implied) to such consolidating bank in Hong Kong there were substituted, as respects anything falling to be done on or after the appointed day, a reference to Corporate Business Bank;

(iii) any reference (however worded and whether express or implied) to the directors or to any director, officer or employee of such consolidating bank in Hong Kong were, as respects anything falling to be done on or after the appointed day, a reference to the directors of Corporate Business Bank or, as the case may require, to such director, officer or employee of Corporate Business Bank as Corporate Business Bank may appoint for that purpose or, in default of appointment, to the director, officer or employee of Corporate Business Bank who corresponds as nearly as may be to the first-mentioned director, officer or employee:

Provided that this paragraph shall not apply to the consolidation agreement

or any agreement made or expressed to be made pursuant or supplemental or in implementation thereto or thereof.

(b) Paragraph (a)(ii) shall, subject to the provisions of section 17, apply to any statutory provision, to any provision of any existing contract to which a consolidating bank in Hong Kong was not a party and to any provision of any other existing document (not being a contract or a will) as they apply to a contract to which that paragraph applies.

(c) Any account between a consolidating bank in Hong Kong and a customer shall, on the appointed day, be transferred to Corporate Business Bank and become an account between Corporate Business Bank and such customer subject to the same conditions and incidents as theretofore; and each such account shall be deemed for all purposes to be a single continuing account; and any existing contracts, agreements, insurance policies, options, novations, certificates, awards, land grants, conveyances, deeds, leases, licences, notices, permits, guarantees, documents granting or comprising any security interest, bonds, indemnities, mandates, instructions and other instruments and undertakings entered into by, made with, given to or by or addressed to a consolidating bank in Hong Kong (whether alone or with any other person and whether as principal or agent and whether in writing or not), shall be construed and have effect on and from the appointed day as if any reference (however worded and whether express or implied) to such account between such consolidating bank in Hong Kong and a customer there were substituted, as respects anything falling to be done on or after the appointed day, and so far as the context permits, a reference to the continuing account between Corporate Business Bank and such customer:

Provided that nothing in this Ordinance shall affect any right of Corporate Business Bank or of any customer to vary the conditions or incidents subject to which any account is kept.

(d) Any existing instruction, order, direction, mandate, power of attorney, authority, undertaking or consent (whether in writing or not and whether or not in relation to an account) given to or by a consolidating bank in Hong Kong, either alone or jointly with another person, shall apply and have effect on and from the appointed day, as if given to or by Corporate Business Bank or, as the case may be, to or by Corporate Business Bank jointly with such other person.

(e) Any negotiable instrument or order for payment of money drawn on, or given to, or accepted or endorsed by, a consolidating bank in Hong Kong, or payable at any place of business of a consolidating bank in Hong Kong, whether so drawn, given, accepted or endorsed before, on or after the appointed day, shall have the same effect on and from the appointed day, as if it had been drawn on, or given to, or accepted or endorsed by Corporate Business Bank, or were payable at the same place of business of Corporate

Business Bank.

(f) The custody of any document or record, goods or other thing held by a consolidating bank in Hong Kong as bailee shall pass to Corporate Business Bank on the appointed day, and the rights and obligations of the consolidating bank in Hong Kong under any contract of bailment relating to any such document or record, goods or thing shall on that day become rights and obligations of Corporate Business Bank.

(g) (i) Any security interest held immediately before the appointed day by a consolidating bank in Hong Kong, or by a nominee or agent of or trustee for a consolidating bank in Hong Kong, as security for the payment or discharge of any liability shall, on and from the appointed day, be held by, or, as the case may require, by that nominee, agent or trustee for, Corporate Business Bank, and be available to Corporate Business Bank (whether for its own benefit or for the benefit of any other person) as security for the payment or discharge of that liability.

(ii) In relation to any security interest vested or deemed to be vested in Corporate Business Bank in accordance with the provisions of this Ordinance and any liability thereby secured, Corporate Business Bank shall be entitled to the rights and priorities and be subject to the obligations and incidents to which the consolidating bank in Hong Kong in question would have been entitled and subject if it had continued to hold the security interest.

(iii) Without prejudice to the generality of subparagraph (ii), in any case where any existing liability subsists between a consolidating bank in Hong Kong and Corporate Business Bank or between the consolidating banks in Hong Kong, in respect of which a consolidating bank in Hong Kong or Corporate Business Bank, or a nominee or agent of or trustee for a consolidating bank in Hong Kong or Corporate Business Bank holds a security interest, that liability shall, for the purpose of enforcing or realizing that security interest, be deemed to continue in effect notwithstanding the vesting or deemed vesting of the consolidating branches in Corporate Business Bank.

(iv) Any security interest referred to in subparagraph (i), (ii) or (iii) and which extends to future advances or liabilities shall, on and from the appointed day, be available to Corporate Business Bank (whether for its own benefit or for the benefit of any other person) as security for the payment or discharge of future advances and liabilities to the same extent and in the same manner in all respects as future advances by, or liabilities to, a consolidating bank in Hong Kong were secured thereby immediately before that day.

(v) Notwithstanding subparagraph (i), where immediately before the appointed day any security interest would not

be available to Corporate Business Bank as security for the payment or discharge of any liability owing to it, or to any consolidating bank in Hong Kong as security for the payment or discharge of any liability owing to it, such security interest shall not become available to Corporate Business Bank as security for such liability on and from the appointed day by virtue only of this Ordinance, unless---

- (A) the terms of such security interest expressly provide otherwise;
- (B) Corporate Business Bank or the relevant consolidating bank obtains the written consent of the person or persons who granted or, if different, the person or persons for the time being liable as security provider under, such security interest; or
- (C) such security interest arises at general law.

(vi) Notwithstanding subparagraph (ii), where immediately before the appointed day, Corporate Business Bank would not, in respect of any liability owing to it, be entitled to the rights and priorities in relation to any security interest then in existence, or any consolidating bank in Hong Kong would not, in respect of any liability owing to it, be entitled to the rights and priorities in relation to any security interest then in existence, Corporate Business Bank shall not, in respect of such liability, be entitled to such rights and priorities on and from the appointed day by virtue only of this Ordinance, unless---

- (A) the terms of such security interest expressly provide otherwise;
- (B) Corporate Business Bank or the relevant consolidating bank obtains the written consent of the person or persons who granted or, if different, the person or persons for the time being liable as security provider under, such security interest; or
- (C) such security interest arises at general law.

(h) (i) Where by virtue of this Ordinance any right or liability of a consolidating bank in Hong Kong is deemed to become a right or liability of Corporate Business Bank, Corporate Business Bank and all other persons shall, on and from the appointed day, have the same rights, powers and remedies (and in particular the same rights and powers as to taking or resisting legal proceedings or making or resisting applications to any authority) for ascertaining, perfecting or enforcing that right or liability as if it had at all times been a right or liability of Corporate Business Bank; and any legal proceedings or application to any authority existing or pending immediately before the appointed day by or against a consolidating bank in Hong Kong may be continued by or against Corporate Business Bank.

(ii) Where any right or liability of a consolidating bank in Hong Kong was before the appointed day the subject of arbitral proceedings to which the relevant consolidating bank in Hong Kong was a party, Corporate Business Bank shall on and from the appointed day automatically be substituted for such consolidating bank in

Hong Kong as a party to those proceedings, without the need for consent from any other party or from the arbitrator.

(i) Any judgment or award obtained by or against a consolidating bank in Hong Kong and not fully satisfied before the appointed day shall from that day, to the extent to which it is or was immediately before the appointed day enforceable by or against such consolidating bank in Hong Kong, become enforceable by or against Corporate Business Bank.

(j) Any court order which applies to a consolidating bank in Hong Kong shall from the appointed day apply to Corporate Business Bank instead of to such consolidating bank in Hong Kong.

(k) Nothing in this Ordinance shall terminate or prejudicially affect the appointment, authority, rights or powers of any receiver or of any receiver and manager appointed by a consolidating bank in Hong Kong, whether alone or with others, before the appointed day.

(1) The Privacy Commissioner may, on and from the appointed day, exercise in respect of Corporate Business Bank any power under the Personal Data (Privacy) Ordinance (Cap. 486) which he could have immediately before the appointed day exercised in respect of a consolidating bank in Hong Kong in respect of a breach or alleged breach by the consolidating bank in Hong Kong of that Ordinance or the data protection principles; but the transfer to, and vesting or deemed vesting in, Corporate Business Bank by this Ordinance of the consolidating branches, and any disclosure to Corporate Business Bank of any information in contemplation or as a result thereof, shall not amount to a breach of any duty of confidentiality to which a consolidating bank in Hong Kong is subject immediately before the appointed day or to a contravention by Corporate Business Bank or a consolidating bank in Hong Kong of the Personal Data (Privacy) Ordinance (Cap. 486) or the data protection principles.

7. Contracts of employment

(1) Section 6(a) shall apply to a contract for the employment of any person by a consolidating bank in Hong Kong and employment with a consolidating bank in Hong Kong and Corporate Business Bank under any such contract shall be deemed for all purposes to be a single continuing employment.

(2) No director or auditor of a consolidating bank shall by virtue only of this Ordinance become a director or auditor, as the case may be, of Corporate Business Bank.

8. Pensions, provident funds and gratuity benefits

(1) The deeds and rules constituting or relating to the pension fund schemes and the provident fund schemes established in Hong Kong in respect of the employees of the consolidating banks in Hong Kong and the gratuity benefits payable by the

consolidating banks in Hong Kong shall, on and from the appointed day, be construed and have effect, so far as the context permits, as if for any reference therein to the consolidating banks in Hong Kong there were substituted a reference to Corporate Business Bank.

(2) No officer or employee of a consolidating bank in Hong Kong who becomes or is deemed to become an officer or employee of Corporate Business Bank by virtue of this Ordinance shall, by virtue only of this Ordinance, be entitled to participate in any pension fund schemes or provident fund schemes of or gratuity benefits payable by Corporate Business Bank, and no existing officer or employee of Corporate Business Bank shall, by virtue only of this Ordinance, be entitled to participate in any pension fund schemes or provident fund schemes established in Hong Kong in respect of the employees of the consolidating banks in Hong Kong or any gratuity benefits payable by the consolidating banks in Hong Kong.

9. Waiver of prohibition of merger

(1) Any provision contained in any contract or document to which any of the consolidating banks or Corporate Business Bank or any of their respective subsidiaries is a party and which prohibits or has the effect of prohibiting the transactions referred to in this Ordinance, including but not limited to the transfer and vesting or deemed transfer and vesting of the consolidating branches in Corporate Business Bank shall be deemed by this Ordinance to have been waived.

(2) Any provision contained in any contract or document to the effect that a breach of contract or a default shall occur or be deemed to occur as a result of the transactions referred to in this Ordinance, including but not limited to the transfer and vesting or deemed transfer and vesting of the consolidating branches in Corporate Business Bank, and to which any of the consolidating banks or Corporate Business Bank or any of their respective subsidiaries is a party shall be deemed by this Ordinance to have been waived.

10. Evidence: books and documents

(1) All books and other documents which would, before the appointed day, have been evidence in respect of any matter for or against a consolidating bank in Hong Kong shall be admissible in evidence in respect of the same matter for or against Corporate Business Bank from and after the appointed day.

(2) In this section, "documents" (文件) has the same meaning as in section 46 of the Evidence Ordinance (Cap. 8).

11. Part III of Evidence Ordinance (Cap. 8)

(1) On and from the appointed day, Part III of the Evidence Ordinance (Cap. 8) shall apply to the banker's records of the consolidating banks in Hong Kong vested or deemed to be vested in Corporate Business Bank by virtue of this Ordinance, and

to entries made in those records before the appointed day, as if such records were the records of Corporate Business Bank.

(2) For the purposes of section 20 of the Evidence Ordinance (Cap. 8), banker's records which are deemed to have become the banker's records of Corporate Business Bank by virtue of this Ordinance shall be deemed to have been the ordinary banker's records of Corporate Business Bank at the time of the making of any entry therein which purports to have been made before the appointed day, and any such entry shall be deemed to have been made in the usual and ordinary course of business.

(3) For the purposes of sections 40 and 41 of the Evidence Ordinance (Cap. 8), documents previously in the custody or control of the consolidating banks in Hong Kong shall by virtue of this Ordinance be deemed to be documents previously in the custody or control of Corporate Business Bank.

(4) In this section, "banker's records" (銀行紀錄) shall be construed in accordance with section 2 of the Evidence Ordinance (Cap. 8).

12. Evidence of vesting

(1) The production of a Government Printer's copy of this Ordinance shall, for all purposes, be conclusive evidence of the vesting or deemed vesting of the consolidating branches in Corporate Business Bank in accordance with the provisions of this Ordinance.

(2) Without prejudice to the generality of subsection (1)---

(a) a Government Printer's copy of this Ordinance, together with such evidence of publication of notice of the appointed day shall, in relation to any registered securities transferred to, and vested or deemed to be vested in, Corporate Business Bank by virtue of this Ordinance, operate for all purposes as a duly executed instrument of transfer in respect of the transfer of such registered securities from the consolidating banks in Hong Kong to Corporate Business Bank;

(b) any deed or other document made or executed on or after the appointed day, whereby Corporate Business Bank or a consolidating bank in Hong Kong, whether alone or jointly with any other person, conveys or transfers, or purports to convey or transfer, to any person (whether for consideration or not), or applies to be registered as the holder or proprietor of, any property held by a consolidating bank in Hong Kong immediately before the appointed day, whether alone or jointly with any other person, shall be sufficient evidence that the interest of the consolidating banks in Hong Kong in that property is vested or deemed to be vested in Corporate Business Bank under this Ordinance;

(c) where there is any other transaction or purported transaction by Corporate Business Bank or a consolidating bank in Hong Kong on or after the appointed day in connection with, or in relation to, any property or liabilities which are property

or liabilities of the consolidating banks in Hong Kong immediately before that day, it shall be deemed in favour of any other party to the transaction, or any person claiming through or under him, that Corporate Business Bank has full power and authority for that transaction as if the property or liabilities were vested or deemed to be vested in it under this Ordinance;

(d) a certificate given by or on behalf of Corporate Business Bank at any time on or after the appointed day, that any property or liabilities specified in the certificate (which property or liabilities immediately before the appointed day are property or liabilities of a consolidating bank in Hong Kong) is or are or, as the case may be, is or are not at the date so specified vested or deemed to be vested in Corporate Business Bank under this Ordinance, shall be conclusive evidence for all purposes of the fact so certified;

(e) nothing in paragraphs (c) and (d) shall affect the liability of Corporate Business Bank and the consolidating banks in Hong Kong to each other in respect of anything done, or purporting to have been done, by any of them in connection with, or in relation to, any property or liabilities; and

(f) in this subsection---

"convey" (轉易) includes mortgage, charge, lease, assent, vest by way of vesting declaration or vesting instrument, disclaim, release or otherwise assure;

"registered securities" (註冊證券) means shares, stocks, debentures, loans, bonds, units of a unit trust scheme or other shares of the investments subject to the trusts of such a scheme, and other securities of any description which are transferable and the holders of which are entered in a register (whether maintained in Hong Kong or not).

(3) Corporate Business Bank shall register or cause to be registered in the Land Registry a Government Printer's copy of this Ordinance in respect of the vesting or deemed vesting in Corporate Business Bank of the relevant property of the consolidating banks in Hong Kong.

(4) Nothing in this section applies to any property falling within section 4(3).

13. Interests in land

(1) The vesting and deemed vesting in Corporate Business Bank of an interest in land by virtue of this Ordinance shall not---

(a) constitute an acquisition, disposal, assignment, transfer or parting with possession of that interest for the purposes of section 53(4)(a) or (7)(a), 119E(2) or 119H(1)(a) of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7); or
(b) constitute an assignment or underlease of, or an agreement to assign or underlet, that interest for the purposes of section 6(1)(b) of the Landlord and Tenant

(Consolidation) Ordinance (Cap. 7); or

(c) constitute an assignment, transfer, devolution, parting with possession, dealing with or other disposition of that interest for the purposes of any provision contained in any instrument concerning or affecting that interest; or

(d) operate as a breach of covenant or condition against alienation; or

(e) give rise to any forfeiture, damages or other right of action; or

(f) invalidate or discharge any contract or security interest; or

(g) operate so as to merge any leasehold interest in the reversion expectant on it; or

(h) extinguish, affect, vary, diminish or postpone any priority of that interest, whether under the Land Registration Ordinance (Cap. 128), at law or in equity.

(2) All existing registration of any interest in land in the name of a consolidating bank in Hong Kong (whether alone or with any other person) shall be construed and have effect on and from the appointed day as if Corporate Business Bank had been entered on the land register instead of such consolidating bank.

14. Completion and deduction of title of property

To enable Corporate Business Bank to complete title, if thought fit, to any property transferred to it or vested or deemed to be vested in it by virtue of this Ordinance by notice of title, deed, instrument or otherwise, or to deduce title, this Ordinance shall be deemed to be, and may be used as, an assignment or assignation, conveyance, transfer or, as the case may be, general disposition of such property in favour of Corporate Business Bank.

15. Accounting treatment of Corporate Business Bank and the consolidating banks in Hong Kong

(1) On and from the appointed day, by virtue of this Ordinance and notwithstanding the provisions of any other Ordinance, the balance sheets and profit and loss accounts of the consolidating banks in Hong Kong and Corporate Business Bank for the financial year of each of the consolidating banks and Corporate Business Bank in which the appointed day falls shall be prepared in all respects as if the consolidating branches had vested or been deemed to have vested in Corporate Business Bank pursuant to section 4 on the first day of such financial year.

(2) Without prejudice to the generality of subsection (1), any profits or losses of the consolidating banks in Hong Kong earned or incurred after the beginning of the financial year of the consolidating banks in Hong Kong in which the appointed day shall occur, shall on and from the appointed day, by virtue of this Ordinance, be treated for all purposes as profits or, as the case may be, losses, of Corporate Business Bank.

16. Taxation and revenue matters

(1) For the purposes of the Inland Revenue Ordinance (Cap. 112), on and from the appointed day Corporate Business Bank shall be treated as if it were the continuation of and the same person in law as the consolidating banks in Hong Kong.

(2) Accordingly (and without affecting the generality of subsection (1))---

(a) a vesting or deemed vesting in Corporate Business Bank of any property or liabilities by virtue of this Ordinance does not constitute a sale or other disposal of or a change in the nature of that property or the liability for any purpose under the Inland Revenue Ordinance (Cap. 112);

(b) the aggregate amount of any losses sustained by the consolidating banks in Hong Kong which are capable of but have not been carried forward and set off against assessable profits of the consolidating banks in Hong Kong for the purposes of section 19C of the Inland Revenue Ordinance (Cap. 112) as at the end of the last complete financial year of the consolidating banks in Hong Kong are deemed to be losses of Corporate Business Bank and, accordingly, available for set off against the assessable profits of Corporate Business Bank (or Corporate Business Bank's share of assessable profits of a partnership in which it is a partner) for the purposes of that Ordinance.

(3) The profits or losses of the consolidating banks in Hong Kong treated as profits or losses of Corporate Business Bank in accordance with section 15(2)---

(a) shall not be taken into account for the purpose of computing the profits or losses of the consolidating banks in Hong Kong which are chargeable to tax under Part IV of the Inland Revenue Ordinance (Cap. 112) for any year of assessment; and

(b) shall be taken into account for the purpose of computing the profits or losses of Corporate Business Bank which are chargeable to tax under Part IV of the Inland Revenue Ordinance (Cap. 112) for the year of assessment the basis period for which includes the appointed day.

17. Saving for enactments concerning banking institutions

Nothing in this Ordinance shall exempt a consolidating bank or Corporate Business Bank or any subsidiary of a consolidating bank or Corporate Business Bank from the provisions of any enactment regulating the carrying on of the business of any of them.

18. Saving for companies

Nothing in this Ordinance shall prejudice the powers of any consolidating bank, or Corporate Business Bank, or any other member of the Mizuho Financial Group to alter its articles of incorporation or other constitutive documents or to dispose of, or deal with, its property, security interests or liabilities or to carry on or discontinue any part of its business; and nothing in this Ordinance shall prejudice the powers of IBJ to dispose of, or deal with, its property, security interests or liabilities before its dissolution on the appointed day.

19. Saving

Nothing in this Ordinance shall affect or be deemed to affect the rights of the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws, or the rights of any body politic or corporate or of any other person except such as are mentioned in this Ordinance and those claiming by, from or under them.

Explanatory Memorandum

The purpose of this Bill is to make provision in Hong Kong for the transfer and vesting and recognition of the merger and vesting of the undertakings of the Hong Kong branches of The Dai-Ichi Kangyo Bank, Limited ("DKB") and The Industrial Bank of Japan, Limited ("IBJ"), each of which is licensed as a bank under the Banking Ordinance (Cap. 155) and is a corporation organized under the laws of Japan, to and in The Fuji Bank, Limited ("Corporate Business Bank"), which is licensed as a bank under the Banking Ordinance (Cap. 155) and is a corporation organized under the laws of Japan.

2. The Bill provides for---

- (a) the vesting of the undertaking of DKB Hong Kong Branch in Corporate Business Bank on the appointed day (clause 4); and
- (b) recognition of the vesting of IBJ Hong Kong Branch in Corporate Business Bank on the appointed day (clause 4).

3. The Bill contains a number of supplementary provisions relating, inter alia, to---

- (a) the effect of the vesting or deemed vesting in relation to trusts and wills (clause 5);
- (b) relationships with customers, borrowers and other third parties (clause 6);
- (c) employment, pensions and provident fund matters (clauses 7 and 8);
- (d) evidence (clauses 10 to 12);
- (e) interests in land and the completion and deduction of title to property (clauses 13 and 14);
- (f) accounting and taxation matters (clauses 15 and 16).

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The Fuji Bank, Limited

The Industrial Bank of Japan, Limited