

LEGISLATIVE COUNCIL BRIEF
STANDARD CHARTERED BANK (HONG KONG) LIMITED (MERGER) BILL

Introduction

1. The Chief Executive granted his consent for the Bill to be introduced before the Legislative Council on 9th March 2004. This Bill is introduced under Article 74 of the Basic Law by Legislative Council member, Dr. Hon. David Li Kwok-po, GBS, JP. The Bill was considered by the Financial Affairs Panel of the Legislative Council on 2nd February 2004 and no objections to the Bill were raised.

Background and Purpose

2. The Bill provides for the merger and reorganisation of the undertakings of the Hong Kong branch of Standard Chartered Bank, Manhattan Card Company Limited (**"Manhattan Card Company"**), Standard Chartered Finance Limited (**"Standard Chartered Finance"**), Standard Chartered International Trade Products Limited and Chartered Capital Corporation Limited (**"Chartered Capital Corporation"**) (together, the **"Transferring Entities"**) by transferring their assets and liabilities to a new, wholly owned subsidiary within the Standard Chartered Group. All of the Transferring Entities are members of the Standard Chartered Group, which is headed by Standard Chartered PLC. The wholly owned subsidiary has been incorporated in Hong Kong and is named Standard Chartered Bank (Hong Kong) Limited 渣打銀行（香港）有限公司 (**"Standard Chartered (Hong Kong)"**). It is authorized as a bank under the Banking Ordinance.
3. In a number of jurisdictions, such as the United States, Japan and Switzerland, banks and other financial institutions can merge with one another by way of "universal succession". However, Hong Kong company law does not have such a concept as "universal succession". Accordingly, bank mergers or major reorganisations in Hong Kong are typically effected either by transfer of all property and liabilities by way of novation or assignment or by introducing a Bill to the Legislative Council which transfers all property and liabilities of the merging bank which are governed by Hong Kong law. Given the large number of outstanding agreements between the Transferring Entities and their customers and other counterparties, it will not be practicable to transfer such assets and liabilities by way of novation and assignment to Standard Chartered (Hong Kong).
4. Standard Chartered was created from the merger in 1969 of The Chartered Bank and The Standard Bank Limited. Both Banks were established in the mid-19th century and their origins lie in financing trade in the emerging markets of Asia and Africa. In 2003, Standard Chartered Bank celebrated its 150th anniversary.

Standard Chartered Bank has a long history of banking operations in Hong Kong and mainland China. The Bank opened its first China branch in Shanghai in 1858 and is the oldest foreign bank in the country. It has been operating in China uninterrupted for the past 145 years. In Hong Kong, Standard Chartered started its operations in 1859 and is the note issuing bank with the longest history in Hong Kong, having first issued Hong Kong banknotes in 1862. Standard Chartered Bank is a fully licenced bank in Hong Kong offering a comprehensive range of consumer, corporate and global markets products and services.

The history and growth of Standard Chartered is closely aligned to that of Hong Kong and during this period the Bank has always remained committed to Hong Kong. The listing of Standard Chartered PLC on the main board of the Hong Kong Stock Exchange in 2002 bears testament to this commitment.

To further demonstrate its long-term commitment to, and confidence in, Hong Kong and China, Standard Chartered now intends to locally incorporate its Hong Kong business. Incorporating the Hong Kong operations is in line with Standard Chartered's strategy for Greater China. It gives the Bank an opportunity to strengthen its local franchise and capitalize on the ample business opportunities created as a result of the closer economic integration between Hong Kong and the mainland.

5. It is the Government's stated policy to support consolidation of the banking and financial sector in Hong Kong, which should improve its competitiveness and contribute to systemic stability in the longer term. As part of this policy, the Administration has previously supported mergers of banks and other financial institutions where reasonable proposals are submitted. This is, however, always subject to the overriding aim to promote the stability of the banking system and to provide an appropriate degree of protection to depositors. The Hong Kong Monetary Authority ("**HKMA**") has no objection to the proposed merger being effected by way of a private bill such as this Bill.
6. The Bill has advantages for the Transferring Entities' customers, other financial institutions and suppliers who conduct business with the Transferring Entities. They will have the reassurance that all Hong Kong law governed property and liabilities of the Transferring Entities have been properly transferred to Standard Chartered (Hong Kong). Customers will also not be inconvenienced by having to sign new customer documentation. Further, the basis of the transfer of the Hong Kong law governed property and liabilities among Standard Chartered (Hong Kong) and the Transferring Entities will be publicly known and uniform.
7. Since the early 1980s the Legislative Council has passed a number of ordinances implementing mergers of banks and other authorized institutions. The Bill is based on the form of those bank merger ordinances which were considered to be most relevant or analogous to the proposed Standard Chartered reorganisation, including those ordinances enacted by the Legislative Council over the course of 2001 and 2002. Differences from analogous prior Ordinances are matters of technical drafting, reflecting the particular circumstances of this bank merger.

Issue of Legal Tender Notes

8. Standard Chartered Bank is a note-issuing bank. The intention of the Bank is to seek the authorization of Standard Chartered (Hong Kong) as a note-issuing bank under section 3(2) of the Legal Tender Notes Issue Ordinance in place of Standard Chartered Bank. While the matter is being considered by the Government, the current plan is that, if Standard Chartered (Hong Kong) is authorized as a note-issuing bank, this would take effect on the same day as the appointed day under Clause 3 of the Bill. Clause 7(1) of the Bill explains the relevant arrangements.
9. Standard Chartered Bank has provided the operational support as well as distribution and other services associated with note-issuance in compliance with the Legal Tender Notes Issue Ordinance and subject to the terms and conditions specified by the Financial Secretary. Standard Chartered (Hong Kong) will have the financial, operational and distribution resources, including Standard Chartered Bank's existing

branch network, to continue the note-issuing service. Clause 7(2) of the Bill sets out the rights and obligations that Standard Chartered (Hong Kong) will assume in place of Standard Chartered Bank in the event that it is authorized as a note-issuing bank. The proposed arrangements are based on those in the Bank of China case, when its note-issuing functions were transferred to Bank of China (Hong Kong) Limited upon its being authorized as a note issuing bank under the relevant provisions of the Legal Tender Notes Issue Ordinance. This transfer took place on the same appointed day as the other transfers under the Bank of China (Hong Kong) Limited (Merger) Ordinance.

10. The Government's policy is to ensure that any succession of note-issuing bank should be seamless and conducive to maintaining public confidence and currency stability. The matters referred to in Clause 7(2) are governed by existing government policies reflected in the Legal Tender Notes Issue Ordinance (Cap 65) and the Exchange Fund Ordinance (Cap 66).

The Bill

11. The purpose of the Bill is to transfer the undertakings of the Transferring Entities to Standard Chartered (Hong Kong). Two of the Transferring Entities are authorized under the Banking Ordinance. These are Standard Chartered Bank, which is a licenced bank, and Manhattan Card Company, which is a restricted licence bank. Manhattan Card Company will apply to the HKMA for the revocation of its restricted banking licence pursuant to the Banking Ordinance. Subject to the approval of the HKMA, Standard Chartered Bank will retain its banking licence, at least for a transitional period.
12. The Bill provides for the vesting of the Hong Kong business of the Transferring Entities which are governed by or subject to Hong Kong law in Standard Chartered (Hong Kong) on the appointed day with the exception of a very limited range of excluded property and liabilities. The appointed day will be decided in consultation with the HKMA.
13. The key provisions of the proposed Bill are similar to those of the recently enacted merger bills and are summarised in the following paragraphs:
 - (a) **Clause 2** sets out the definitions of certain terms used in the Bill. In particular, there is a definition of "excluded property and liabilities". A limited range of property and liabilities is specifically excluded. No discretion is conferred on Standard Chartered (Hong Kong) to exclude property or liabilities. The exclusions in paragraphs (a) to (d) of the definition correspond to exclusions in previous bank merger bills. Paragraph (d) excludes the merger agreement, which obliges the Transferring Entities and Standard Chartered (Hong Kong) to do everything in their power to facilitate the merger and deals with consideration. It is necessary to exclude the merger agreement so that the obligations and rights of the Transferring Entities under it do not pass under the Bill to Standard Chartered (Hong Kong). Paragraphs (e) and (f) relate to obligations of the Transferring Entities to pay their retained earnings (as at the appointed day under the Bill) to members of the Standard Chartered group. It is intended that these obligations should be performed by the Transferring Entities and not by Standard Chartered (Hong Kong).
 - (b) **Clause 3** provides that the board of directors of Standard Chartered (Hong Kong) may determine an appointed day upon which the merger will take effect and that such appointed day must be notified by both the Transferring Entities and Standard Chartered (Hong Kong) in the Gazette.

- (c) **Clause 4** provides that the share capital accounts and share premium accounts of Manhattan Card Company, Standard Chartered Finance and Chartered Capital Corporation will be reduced on the appointed day. It also points out that Manhattan Card Company's restricted banking licence will be revoked on and from a date to be appointed by the Monetary Authority. There are no name-change provisions as are often seen in similar recent merger ordinances.
- (d) **Clause 5** is the main transfer and vesting provision in the Bill. It provides that the undertakings of the Transferring Entities (not including the "excluded property and liabilities") shall transfer to and vest in Standard Chartered (Hong Kong) as if Standard Chartered (Hong Kong) were the same person in law as the Transferring Entities upon the appointed day.
- (e) **Clause 6** deals with property which, before the merger, is held by a Transferring Entity in a capacity as a trustee. It provides that in such case, the relevant document should be read as if references to the Transferring Entity were references to Standard Chartered (Hong Kong).
- (f) **Clause 7** deals with bank note issue matters. It points out that if Standard Chartered (Hong Kong) is authorized as a note-issuing bank in place of Standard Chartered Bank, the change will take effect on the same day as the appointed day of the Bill. Amongst other things, (i) all legal tender notes issued by Standard Chartered Bank prior to the appointed day shall, from the appointed day, be transferred to and vest in Standard Chartered (Hong Kong) by virtue of the Bill and (ii) all bank notes of Standard Chartered Bank which, had they been issued by Standard Chartered Bank prior to the appointed day would have constituted legal tender notes of Standard Chartered Bank shall, from the appointed day, be transferred to and vest in Standard Chartered (Hong Kong).
- (g) **Clauses 8(a) to (k)** provide that all contracts and agreements made with, given to or by or addressed to the Transferring Entities (or to Standard Chartered Bank for the benefit of a Transferring Entity) (other than excluded property and liabilities) shall, after the merger takes effect, be construed as if Standard Chartered (Hong Kong) had been the original party instead of the Transferring Entities (or Standard Chartered Bank) and, accordingly, all references to the Transferring Entities (or Standard Chartered Bank) must be construed as if they were to Standard Chartered (Hong Kong). **Clauses 8(a) to (k)** also provide for accounts, negotiable instruments, powers of attorney, security, court orders, arbitration awards and judgements to be transferred to Standard Chartered (Hong Kong) upon the appointed day. **Clauses 8(g)(v) and (vi)** are provisions which seek to reflect previous concerns in respect of other bank mergers expressed by Members of the Legislative Council regarding the possible increase of security or charges over customers' assets as a result of the merger.
- (h) **Clause 8(l)** provides that the transfer of personal data from the Transferring Entities to Standard Chartered (Hong Kong) under the Bill shall not result in a breach of any duty of confidentiality or a contravention of the Personal Data (Privacy) Ordinance. The Privacy Commissioner may exercise in respect of Standard Chartered (Hong Kong) any power which he could, before the merger, have exercised in respect of the Transferring Entities.

- (i) **Clause 9** provides for the accounting treatment of Standard Chartered (Hong Kong) following the merger. However unlike the case in recently enacted merger ordinances, the Bill does not seek the backdating of accounting treatment.
- (j) **Clause 10** provides for the taxation arrangements following the merger. It also provides that for the purposes of the Inland Revenue Ordinance, Standard Chartered (Hong Kong) shall be treated as if it were the same person in law with regard to the undertakings as the Transferring Entities on and from the appointed day and any profits or losses of the Transferring Entities shall be treated as profits (or losses) of Standard Chartered (Hong Kong). **Clause 10** is intended to have a similar effect to the provisions dealing with taxation matters in previous bank merger ordinances. The effect of this provision is consistent with Government policy on taxation, as stated in the context of recently enacted bank merger ordinances.
- (k) **Clause 11** provides that, in respect of all the Transferring Entities' contracts of employment with those employees who are transferred by the Bill to Standard Chartered (Hong Kong) at the merger, such contracts shall be deemed for all purposes to be a single continuing employment. (All employees of Standard Chartered Bank, Hong Kong branch are proposed to be transferred to Standard Chartered (Hong Kong)). **Clause 11** also provides that no directors, secretary or auditor of the Transferring Entities shall by virtue of the merger only, automatically become a director, secretary or auditor of Standard Chartered (Hong Kong).
- (l) **Clause 12** ensures that the Transferring Entities' employees who are members of pension fund schemes of the Transferring Entities shall continue to be members of these schemes after the transfer of the Transferring Entities' undertakings to Standard Chartered (Hong Kong). It also ensures that former employees of the Transferring Entities and existing employees of Standard Chartered (Hong Kong) shall continue to enjoy the same rights following the transfer as before under their respective pension schemes and that the transfer by virtue of the Bill (once it is enacted and comes into effect) shall not automatically bestow any additional entitlements to such employees.
- (m) **Clause 13** provides that any provision contained in any contract or other document to which a Transferring Entity or Standard Chartered (Hong Kong) or any of their respective subsidiaries is a party which prohibits or has the effect of prohibiting the merger or under which an event of default or a termination event occurs as a result of the merger shall be deemed to have been waived by the Bill, once it is enacted and comes into effect.
- (n) **Clauses 14 to 16** set out provisions dealing with evidence and the admissibility of evidence in respect of any matter for or against the Transferring Entities which, when transferred by the Bill (once it is enacted and comes into effect), becomes admissible in evidence after the merger in respect of the same matter for or against Standard Chartered (Hong Kong). **Clause 15** provides that, for the purposes of the Evidence Ordinance, banker's records of Manhattan Card Company or of the Hong Kong branch of Standard Chartered Bank vested in Standard Chartered (Hong Kong) by the Bill shall be treated as if these were always banker's records of Standard Chartered (Hong Kong).

- (o) **Clause 17** deals with the effect of the merger on interests in land in Hong Kong held by the Transferring Entities and provides that the vesting of the Transferring Entities' interests in land in Standard Chartered (Hong Kong) pursuant to the merger does not constitute an acquisition, assignment, transfer or parting with possession under the Landlord and Tenant (Consolidation) Ordinance. **Clause 17** also provides that the vesting in Standard Chartered (Hong Kong) of the Transferring Entities' interests in land under the merger will not affect or extinguish any priority under the Land Registration Ordinance. For the avoidance of doubt, the Bill stipulates that nothing in **Clause 17** exempts either Standard Chartered (Hong Kong) or the Transferring Entities from the provisions of the Stamp Duty Ordinance.
- (p) **Clause 18** states that nothing in the Bill shall exempt either the Transferring Entities or Standard Chartered (Hong Kong) from any of the provisions of the Banking Ordinance and other ordinances regulating the carrying on of their businesses.
- (q) **Clause 19** provides that the Bill does not prevent Standard Chartered (Hong Kong) from amending its memorandum and articles of association or dealing with its property or business generally. **Clause 19** also provides that nothing in the Bill prevents any member of the Standard Chartered group from altering its memorandum and articles of association or dealing with its property generally before the appointed day.
- (r) **Clause 20** provides that nothing in the Bill (once it is enacted and comes into effect) shall affect the rights of the Central Authorities or the Government under the Basic Law and other laws.

Taxation

- 14. As mentioned above, **Clauses 8, 9 and 10** have the effect of deeming Standard Chartered (Hong Kong) as one and the same as the Transferring Entities in law, and allowing any profits and losses of the Transferring Entities to be treated as the profits and losses of Standard Chartered (Hong Kong) from the appointed day under the Bill.

Consultation

- 15. No public consultation has been conducted. However, the Financial Affairs Panel has considered the Bill. In addition, the administration is in support of the Bill and the HKMA, the Financial Services and the Treasury Bureau, the Department of Justice, the Commissioner of Inland Revenue, the Companies Registrar, the Land Registrar, the Privacy Commissioner for Personal Data and the Mandatory Provident Funds Authority have been consulted in relation to the Bill. All of them have provided their comments (if any), which have been accommodated.

Legislative Timetable

- 16. The proposed legislative timetable is as follows:

Financial Affairs Panel	2 nd February, 2004
Publication in the Gazette for the first time	12 th March, 2004

Publication in the Gazette for the second time	19 th March, 2004
Member in charge of the Bill gives notice of intention to present the Bill to the Clerk of the Legislative Council	19 th March, 2004
First Reading and commencement of Second Reading debate	24 th March, 2004

Publicity

17. The Bill was published in the Gazette on 12th March, 2004 and 19th March, 2004 and notice of the Bill has been given by way of advertisements in the South China Morning Post and the Hong Kong Economic Journal on 12th March, 2004 and 16th March, 2004. In addition, a further press release will be issued by Standard Chartered (Hong Kong) upon completion of the legislative process.

Enquiries

18. Any enquiries about this brief can be directed to Mr. Andrew Burns at the Office of Legislative Councillor, Dr. Hon. David Li Kwok-po, GBS, JP at telephone number 28423449 or fax number 25261909.

Dr. Hon. David Li Kwok-po, GBS, JP
19th March 2004

ANNEX

STANDARD CHARTERED BANK (HONG KONG) LIMITED (MERGER) BILL

CONTENTS

Clause		Page
1.	Short title	3
2.	Interpretation	3
3.	Notice of appointed day	7
4.	Reduction of share capital and revocation of restricted banking licence	8
5.	Vesting of the undertakings in Standard Chartered Bank (Hong Kong)	10
6.	Trust property	10
7.	Issue of legal tender notes	11
8.	Supplementary provisions	14
9.	Accounting treatment of Standard Chartered Bank (Hong Kong) and the transferring entities	23
10.	Taxation and revenue matters	25
11.	Contracts of employment	25
12.	Pensions, provident funds and gratuity benefits	26
13.	Waiver of prohibition of merger	26
14.	Evidence: books and documents	27
15.	Part III of Evidence Ordinance (Cap. 8)	27
16.	Evidence of vesting and transfer	28
17.	Interests in land	30
18.	Saving for other enactments	32
19.	Saving for companies	32
20.	Saving	33

A BILL

To

Provide for the vesting in Standard Chartered Bank (Hong Kong) Limited 渣打銀行（香港）有限公司 of the undertakings of the Hong Kong branch of Standard Chartered Bank, Manhattan Card Company Limited, Standard Chartered Finance Limited 渣打財務（香港）有限公司, Standard Chartered International Trade Products Limited and Chartered Capital Corporation Limited and for other related purposes.

Preamble

WHEREAS -

- (a) Standard Chartered Bank (Hong Kong) Limited 渣打銀行（香港）有限公司 (hereinafter called "Standard Chartered Bank (Hong Kong)") is a company incorporated under the laws of Hong Kong having its registered office in Hong Kong and is a bank authorized under the Banking Ordinance (Cap. 155);
- (b) Standard Chartered Bank (hereinafter called "Standard Chartered") is a company incorporated under the laws of England and Wales by way of Royal Charter having its registered office in the United Kingdom and is a bank authorized under the Banking Ordinance (Cap. 155) carrying on the business of banking in Hong Kong and elsewhere;
- (c) Manhattan Card Company Limited (hereinafter called "Manhattan Card Company") is a company incorporated under the laws of Hong Kong having its registered office in Hong Kong and is a restricted licence bank authorized under the Banking Ordinance (Cap. 155);

- (d) Standard Chartered Finance Limited 渣打財務(香港)有限公司 (hereinafter called "Standard Chartered Finance") is a company incorporated under the laws of Hong Kong having its registered office in Hong Kong;
 - (e) Standard Chartered International Trade Products Limited (hereinafter called "Standard Chartered International") is a company incorporated under the laws of Hong Kong having its registered office in Hong Kong;
 - (f) Chartered Capital Corporation Limited (hereinafter called "Chartered Capital") is a company incorporated under the laws of Hong Kong having its registered office in Hong Kong;
 - (g) Standard Chartered Bank (Hong Kong), Standard Chartered, Manhattan Card Company, Standard Chartered Finance, Standard Chartered International and Chartered Capital are members of the Standard Chartered group of companies of which Standard Chartered PLC is the ultimate holding company (hereinafter called "Standard Chartered Group");
 - (h) Standard Chartered operates through a branch in Hong Kong (hereinafter called "Standard Chartered, Hong Kong Branch");
 - (i) for the better conduct of the businesses of the Standard Chartered Group, it is expedient that the respective undertakings of Standard Chartered, Hong Kong Branch, Manhattan Card Company, Standard Chartered Finance, Standard Chartered International and Chartered Capital be merged into, and succeeded by, Standard Chartered Bank (Hong Kong) and that such merger and succession should occur by means of a transfer of the undertakings of Standard Chartered, Hong Kong Branch, Manhattan Card Company, Standard Chartered Finance, Standard Chartered International and Chartered Capital to Standard Chartered Bank (Hong Kong);
-

- (j) in view of the extent of the contractual and other legal relationships affecting the conduct of the undertakings of Standard Chartered, Hong Kong Branch, Manhattan Card Company, Standard Chartered Finance, Standard Chartered International and Chartered Capital, it is expedient that the said undertakings be transferred to Standard Chartered Bank (Hong Kong) by this Ordinance without interference with the conduct and continuity of the respective businesses of Standard Chartered Bank (Hong Kong), Standard Chartered, Hong Kong Branch, Manhattan Card Company, Standard Chartered Finance, Standard Chartered International and Chartered Capital.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Standard Chartered Bank (Hong Kong) Limited (Merger) 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 pursuant to section 3;

"Chartered Capital" means Chartered Capital Corporation Limited;

"customer" (客戶) means any person having a banking account or other dealing, transaction or arrangement with a transferring entity;

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

"excluded property and liabilities" (除外財產及各項法律責任) means –

- (a) the common seal of each of the transferring entities;
- (b) documents required to be kept by the transferring entities pursuant to the Companies Ordinance (Cap. 32) and, in the case of Standard Chartered, the Companies Act 1985 of England and Wales;
- (c) the issued and unissued share capital of Manhattan Card Company, Standard Chartered Finance, Standard Chartered International and Chartered Capital and rights in respect thereof;
- (d) the rights and liabilities of the transferring entities under the merger agreement;
- (e) any liability recorded in the books of Standard Chartered, Hong Kong Branch as being due to Standard Chartered under the caption "Profit/Loss Awaiting Remittance"; and
- (f) any liability of any transferring entity to pay any dividend;

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

"legal tender notes" (法定貨幣紙幣) has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65);

"liabilities" (各項法律責任) includes duties and obligations of every description (whether present or future, actual or contingent) and a reference to a "liability" is a reference to one of the liabilities;

"Manhattan Card Company" means Manhattan Card Company Limited;

"merger agreement" (合併協議) means the merger agreement entered into by or on behalf of Standard Chartered Bank (Hong Kong), Standard Chartered, Manhattan Card Company, Standard Chartered Finance, Standard Chartered International and Chartered Capital for the purposes of agreeing the terms and conditions on which the undertakings are transferred to Standard Chartered Bank (Hong Kong);

"note-issuing bank" (發鈔銀行) has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65);

"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) including, without limitation, rights as beneficiary under trust or nominee arrangements and includes property held on trust or in a fiduciary capacity and security interests, benefits and powers of every description;

"Registrar of Companies" (公司註冊處處長) means the Registrar of Companies appointed under section 303 of the Companies Ordinance (Cap. 32);

"security interest" (抵押權益) includes a mortgage or charge (whether legal or equitable and whether fixed or floating), debenture, bill of exchange, promissory note, guarantee, lien, pledge (whether actual or constructive), hypothecation, hypothec, assignment by way of security, indemnity, right of set-off, flawed asset arrangement, agreement or undertaking, right of compensation or undertaking, any standard security, any assignation or disposition ex facie absolute and any agreement or other deed, instrument or document qualifying the same, any bond and disposition or assignation in security, any bond of cash credit, any bond of cash credit and disposition or assignation in security, any assignation in security, any real right or burden of whatever kind in the nature of a security and any other deed, document, conveyance, instrument, arrangement or means (in each case made, granted, arising or subsisting under any applicable law) for securing the payment or discharge of any debt or liability and also includes any agreement or undertaking (in each case, whether in writing or not) to give or execute any of the foregoing whether upon demand or otherwise or other

means (in each case made, granted, arising or subsisting under any applicable law) for securing the payment or discharge of a debt or liability (whether present or future, actual or contingent);

"Standard Chartered" (渣打) means Standard Chartered Bank;

"Standard Chartered Bank (Hong Kong)" (渣打銀行(香港)) means Standard Chartered Bank (Hong Kong) Limited 渣打銀行(香港)有限公司;

"Standard Chartered Finance" (渣打財務) means Standard Chartered Finance Limited 渣打財務(香港)有限公司;

"Standard Chartered Group" (渣打集團) means Standard Chartered PLC and its subsidiaries;

"Standard Chartered, Hong Kong Branch" (渣打香港分行) means Standard Chartered acting through each of the places in Hong Kong at which Standard Chartered carries on business;

"Standard Chartered International" means Standard Chartered International Trade Products Limited;

"subsidiary" (附屬公司) has the meaning assigned to it by section 2(4) of the Companies Ordinance (Cap. 32);

"transferring banks" (各移轉銀行) means Standard Chartered, Hong Kong Branch and Manhattan Card Company and a reference to a "transferring bank" is a reference to one of the transferring banks;

"transferring entities" (各移轉實體) means the transferring banks and Standard Chartered Finance, Standard Chartered International and Chartered Capital and a reference to a "transferring entity" is a reference to one of the transferring entities;

"undertakings" (各項業務) means the businesses and all existing property, reserves and liabilities of the transferring entities of whatsoever nature as recorded in or created by any of the books and records of a transferring entity (including, without limitation, any property or liability arising from

arrangements between a transferring entity and any other branch of Standard Chartered or member of the Standard Chartered Group and any other property and liabilities of a transferring entity related thereto (other than any excluded property and liabilities)) and a reference to an "undertaking" is a reference to one of the undertakings.

(2) Any reference in this Ordinance to property or liabilities of a transferring entity is a reference to property (other than the excluded property and liabilities) or liabilities to which the transferring entity is immediately prior to the appointed day 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 the transferring entity, and whether the transferring entity 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.

(3) 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.

3. Notice of appointed day

(1) The directors of Standard Chartered Bank (Hong Kong) may appoint a day for the purposes of this Ordinance.

(2) Standard Chartered Bank (Hong Kong) and the transferring entities shall give joint notice in the Gazette stating the day so appointed save that, in the event that such day proves not to be the appointed day for any reason, Standard Chartered Bank (Hong Kong) and the transferring entities shall give joint notice in the Gazette to that effect and shall again give joint notice in the Gazette stating the next day so appointed or, as the case may be, the day which was the appointed day.

4. Reduction of share capital and revocation of restricted banking licence

(1) On the appointed day by virtue of this Ordinance –

- (a) the share premium account of Manhattan Card Company be reduced from \$1,591,890,721 to nil and the authorized and issued share capital account of Manhattan Card Company be reduced (from \$200,000,000 and \$199,424,077.1 respectively) to \$19,942,407.71 by reducing the nominal amount of each of the 1 994 240 771 issued ordinary shares from \$0.10 to \$0.01 each and by cancelling the 5 759 229 unissued shares in the capital of Manhattan Card Company, and that such reduction in share premium account and issued share capital be effected by repaying \$1,771,372,390.39 to the existing members of Manhattan Card Company;
- (b) the authorized and issued share capital account of Standard Chartered Finance be reduced from \$85,000,000 to \$850,000 by reducing the nominal amount of each of the 85 000 000 issued ordinary shares from \$1.00 to \$0.01 each and that such reduction in issued share capital be effected by repaying \$84,150,000 to the existing members of Standard Chartered Finance;
- (c) the share premium account of Chartered Capital be reduced from \$33,520,000 to nil and the authorized and issued share capital account of Chartered Capital be reduced (from \$85,000,000 and \$84,630,000 respectively) to \$8,463 by reducing the nominal amount of each of the 846 300 issued ordinary shares from \$100 to \$0.01 each and by cancelling the 3 700 unissued shares in the capital of Chartered Capital, and that such reduction in share

premium account and issued share capital be effected by repaying \$118,141,537 to the existing members of Chartered Capital;

- (d) the restricted banking licence of Manhattan Card Company shall, in accordance with Part V of the Banking Ordinance (Cap. 155), be revoked on and from a day to be appointed by the Monetary Authority which day shall be published in the Gazette.

(2) Not later than 7 days prior to the appointed day, Manhattan Card Company shall deliver to the Registrar of Companies a copy of this Ordinance together with a minute, signed by a director or the secretary of Manhattan Card Company confirming the reduction of share capital referred to in subsection (1)(a).

(3) Not later than 7 days prior to the appointed day, Standard Chartered Finance shall deliver to the Registrar of Companies a copy of this Ordinance together with a minute, signed by a director or the secretary of Standard Chartered Finance confirming the reduction of share capital referred to in subsection (1)(b).

(4) Not later than 7 days prior to the appointed day, Chartered Capital shall deliver to the Registrar of Companies a copy of this Ordinance together with a minute, signed by a director or the secretary of Chartered Capital confirming the reduction of share capital referred to in subsection (1)(c).

(5) The Registrar of Companies shall, pursuant to this Ordinance, register the copies of the Ordinance and the minutes delivered to him pursuant to subsections (2), (3) and (4) and on the appointed day certify under his hand the registration of the Ordinance and the minutes which certificates shall be conclusive evidence of the reduction of the share capital of each of the transferring entities referred to in subsection (1)(a), (b) and (c) respectively.

5. Vesting of the undertakings in Standard Chartered Bank (Hong Kong)

(1) On the appointed day the undertakings shall, by virtue of this Ordinance and without further act or deed, be transferred to, and vest in, Standard Chartered Bank (Hong Kong) to the intent that Standard Chartered Bank (Hong Kong) shall succeed to the undertakings as if in all respects Standard Chartered Bank (Hong Kong) were the same person in law as the relevant transferring entity.

(2) Where the transfer and vesting of any property and liabilities is governed otherwise than by the laws of Hong Kong, the transferring entity in question shall, if Standard Chartered Bank (Hong Kong) so requires, so soon as is practicable after the appointed day, take all necessary steps for securing the effective transfer and vesting thereof in Standard Chartered Bank (Hong Kong) and, pending such transfer and vesting, the transferring entity in question shall hold any such property and liabilities in trust absolutely for Standard Chartered Bank (Hong Kong).

6. Trust property

(1) Any property vested or deemed to be vested in Standard Chartered Bank (Hong Kong) by virtue of this Ordinance which immediately prior to the appointed day was held by a transferring entity, whether alone or jointly with any other person, as trustee or custodian trustee of any trust deed, settlement, covenant, agreement or other instrument (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 Standard Chartered Bank (Hong Kong) 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 forming part of the undertakings became vested in a transferring entity, in any such fiduciary capacity as is referred to in subsection (1), and any provision in such instrument or order, or any existing contract or arrangement, for the payment to, or retention by, a transferring entity 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 transferring entity not being a reference (however worded and whether express or implied) to terms and conditions of, or to a scale of fees of, the transferring entity, there were substituted a reference to Standard Chartered Bank (Hong Kong) provided always that this subsection shall not prevent Standard Chartered Bank (Hong Kong) from varying the remuneration or scale of fees payable in accordance with the terms of the relevant instrument or order.

7. Issue of legal tender notes

(1) Subject to the Financial Secretary (with the approval of the Chief Executive in Council) –

- (a) by notice in writing authorizing Standard Chartered Bank (Hong Kong) to issue bank notes under section 3(2) of the Legal Tender Notes Issue Ordinance (Cap. 65) with effect from the appointed day; and
- (b) by notice in the Gazette amending the Schedule to the Legal Tender Notes Issue Ordinance (Cap. 65) in accordance with section 6 of that Ordinance by repealing "2. Standard Chartered Bank." from that Schedule and substituting "2. Standard Chartered Bank (Hong Kong) Limited." with effect from the appointed day,

Standard Chartered shall cease to be a note-issuing bank and Standard Chartered Bank (Hong Kong) shall become a note-issuing bank, in each case with effect from the appointed day.

(2) Subject to Standard Chartered Bank (Hong Kong) becoming a note-issuing bank in accordance with subsection (1) and without prejudice to the provisions of the Legal Tender Notes Issue Ordinance (Cap. 65) –

- (a) all legal tender notes issued by Standard Chartered prior to the appointed day shall on and from the appointed day by virtue of this Ordinance and without further act or deed be transferred to, and vest in, Standard Chartered Bank (Hong Kong) to the intent that Standard Chartered Bank (Hong Kong) shall succeed to such legal tender notes as if in all respects Standard Chartered Bank (Hong Kong) were the same person in law as Standard Chartered, and such legal tender notes shall be deemed to have been issued by Standard Chartered Bank (Hong Kong) who shall on and from the appointed day be liable to pay the bearer of such legal tender notes on demand at its office in Hong Kong;
- (b) all bank notes of Standard Chartered which had they been issued by Standard Chartered prior to the appointed day would have constituted legal tender notes of Standard Chartered shall on the appointed day by virtue of this Ordinance and without further act or deed be transferred to, and vest in, Standard Chartered Bank (Hong Kong) to the intent that Standard Chartered Bank (Hong Kong) shall succeed to such bank notes as if in all respects Standard Chartered Bank (Hong Kong) were the same person in law as Standard Chartered;
- (c) Standard Chartered Bank (Hong Kong) shall, subject to any terms and conditions specified by the Financial

Secretary in accordance with section 3(2) of the Legal Tender Notes Issue Ordinance (Cap. 65), on and from the appointed day by virtue of this Ordinance have the power to produce, store, distribute and issue in the name of Standard Chartered bank notes using the same designs or such other designs which Standard Chartered Bank (Hong Kong) shall receive prior written approval from the Financial Secretary and in the same denominations as Standard Chartered was authorized to issue immediately prior to the appointed day;

- (d) any bank notes issued by Standard Chartered Bank (Hong Kong) pursuant to paragraph (c) shall be deemed to be legal tender notes issued by Standard Chartered Bank (Hong Kong) who shall on and from the appointed day be liable to pay the bearer of any legal tender notes so issued on demand at its office in Hong Kong;
- (e) Standard Chartered Bank (Hong Kong) shall, subject to any terms and conditions specified by the Financial Secretary in accordance with section 3(2) of the Legal Tender Notes Issue Ordinance (Cap. 65), have the power to destroy any legal tender notes issued or deemed to be issued by Standard Chartered Bank (Hong Kong) under this section; and
- (f) on and from the appointed day, all certificates of indebtedness issued to Standard Chartered under section 4 of the Exchange Fund Ordinance (Cap. 66) and all indebtedness owed to Standard Chartered under those certificates of indebtedness shall by virtue of this Ordinance and without further act or deed be transferred to, and vest in, Standard Chartered Bank (Hong Kong) to the

intent that Standard Chartered Bank (Hong Kong) shall succeed to such certificates of indebtedness and all indebtedness owed under them as if in all respects Standard Chartered Bank (Hong Kong) were the same person in law as Standard Chartered.

8. 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 other than in relation to the excluded property and liabilities –

- (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 transferring entity or (in so far as they are) entered into by, made with, given to or by or addressed to Standard Chartered (and in any such case where the rights, liabilities or any chose in action under or established by such instruments forms part of any undertaking) (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) Standard Chartered Bank (Hong Kong) had been a party thereto instead of such transferring entity or, as the case may be, Standard Chartered;

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

Provided that this paragraph shall not apply to the merger agreement or any agreement expressed to be made pursuant or supplemental thereto.

- (b) Paragraph (a)(ii) shall, subject to the provisions of section 18, apply to any statutory provision, to any provision of any existing contract to which a transferring entity or, as the case may be, Standard Chartered 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 transferring entity and a customer shall, on the appointed day, be transferred to Standard Chartered Bank (Hong Kong) and become an account between Standard Chartered Bank (Hong Kong) and such customer subject to the same conditions and incidents including, without limitation, any account number 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 transferring entity (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 a transferring entity 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 Standard Chartered Bank (Hong Kong) and such customer:

Provided that nothing in this Ordinance shall affect any right of Standard Chartered Bank (Hong Kong)

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 transferring entity or (in so far as they are) given to or by Standard Chartered on behalf of a transferring entity, either alone or jointly with another person, shall apply and have effect, on and from the appointed day, as if given to or by Standard Chartered Bank (Hong Kong) or, as the case may be, to or by Standard Chartered Bank (Hong Kong) 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 transferring entity or Standard Chartered on behalf of a transferring entity, or payable at any place of business of a transferring entity, whether so drawn, given, accepted or endorsed prior to, 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 Standard Chartered Bank (Hong Kong), or were payable at the same place of business of Standard Chartered Bank (Hong Kong).
- (f) The custody of any document or record, goods or other thing held by a transferring entity as bailee shall pass to Standard Chartered Bank (Hong Kong) on the appointed day, and the rights and obligations of a transferring entity under any contract of bailment relating to any such document or record, goods or thing shall on that day

become rights and obligations of Standard Chartered Bank (Hong Kong).

- (g) (i) Any security interest held immediately prior to the appointed day by a transferring entity, or by a nominee or agent of or trustee for a transferring entity, 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, Standard Chartered Bank (Hong Kong), and be available to Standard Chartered Bank (Hong Kong) (whether for its own benefit or, as the case may be, 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 Standard Chartered Bank (Hong Kong) in accordance with the provisions of this Ordinance and any liability thereby secured, Standard Chartered Bank (Hong Kong) shall be entitled to the rights and priorities and be subject to the obligations and incidents to which the transferring entity 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 transferring entity and Standard Chartered Bank (Hong Kong) or between two transferring entities, in respect of which a transferring entity or Standard Chartered

Bank (Hong Kong), or a nominee or agent of or trustee for a transferring entity or Standard Chartered Bank (Hong Kong) holds a security interest, any liability referred to in subparagraph (ii) shall, for the purpose of enforcing or realizing that security interest, be deemed to continue in effect notwithstanding the vesting of the undertakings in Standard Chartered Bank (Hong Kong).

- (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 Standard Chartered Bank (Hong Kong) (whether for its own benefit or, as the case may be, 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 transferring entity or Standard Chartered Bank (Hong Kong) were secured thereby immediately prior to that day.
- (v) Notwithstanding subparagraph (i), where immediately prior to the appointed day, any security interest would not be available to Standard Chartered Bank (Hong Kong) as security for the payment or discharge of any liability owing to it or to any transferring entity as security for the payment or discharge of any liability owing to it, such security interest shall not become available to Standard Chartered Bank (Hong Kong)

as security for such liability on and from the appointed day by virtue of this Ordinance, unless –

- (A) the terms of such security interest expressly provide otherwise;
 - (B) Standard Chartered Bank (Hong Kong) obtains the written consent of the person or persons who granted such security interest; or
 - (C) such security interest arises at general law.
- (vi) Notwithstanding subparagraph (ii), where immediately prior to the appointed day, Standard Chartered Bank (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, or any transferring entity 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, Standard Chartered Bank (Hong Kong) shall not, in respect of such liability, be entitled to such rights and priorities on and from the appointed day by virtue of this Ordinance, unless –
- (A) the terms of such security interest expressly provide otherwise;
 - (B) Standard Chartered Bank (Hong Kong) obtains the written consent of the person or persons who granted 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 transferring entity or Standard Chartered where it holds any right or liability on behalf of a transferring entity becomes or is deemed to become a right or liability of Standard Chartered Bank (Hong Kong), Standard Chartered Bank (Hong Kong) 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 Standard Chartered Bank (Hong Kong); and any legal proceedings or application to any authority existing or pending immediately prior to the appointed day by or against a transferring entity or, as the case may be, Standard Chartered may be continued by or against Standard Chartered Bank (Hong Kong).
 - (ii) Where any right or liability of a transferring entity or Standard Chartered where it holds any right or liability on behalf of a transferring entity was prior to the appointed day the subject of arbitral or legal proceedings to which the transferring entity or Standard Chartered on behalf of such transferring entity was a party, Standard Chartered Bank (Hong Kong) shall on and from the appointed day automatically be substituted for
-

such transferring entity or, as the case may be, Standard Chartered 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 transferring entity or Standard Chartered where it has obtained a judgment or award or had a judgment or award held against it on behalf of a transferring entity and not fully satisfied prior to the appointed day shall on that day, to the extent to which it is enforceable by or against such transferring entity or Standard Chartered on behalf of such transferring entity, become enforceable by or against Standard Chartered Bank (Hong Kong).
- (j) Any court order which applies to a transferring entity or to Standard Chartered on behalf of a transferring entity shall on and from the appointed day apply to Standard Chartered Bank (Hong Kong) instead of to such transferring entity or, as the case may be, Standard Chartered.
- (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 transferring entity, whether alone or with others, prior to the appointed day.
- (l) The Privacy Commissioner may, on and from the appointed day, exercise in respect of Standard Chartered Bank (Hong Kong) any power under the Personal Data (Privacy) Ordinance (Cap. 486) which he could have immediately prior to the appointed day exercised in respect of a transferring entity in respect of a breach or

alleged breach by a transferring entity of that Ordinance or the data protection principles; but the transfer to, and vesting in, Standard Chartered Bank (Hong Kong) by this Ordinance of the undertakings of the transferring entities and any disclosure to Standard Chartered Bank (Hong Kong) of any information in contemplation or as a result thereof shall not amount to a breach of any duty of confidentiality to which a transferring entity is subject immediately prior to the appointed day or to a contravention by Standard Chartered Bank (Hong Kong) or a transferring entity of the Personal Data (Privacy) Ordinance (Cap. 486) or the data protection principles.

9. Accounting treatment of Standard Chartered Bank (Hong Kong) and the transferring entities

(1) On and from the appointed day, by virtue of this Ordinance and notwithstanding the provisions of any other Ordinance –

- (a) the undertaking of Standard Chartered, Hong Kong Branch shall be transferred to Standard Chartered Bank (Hong Kong) at its carrying value in the accounts of Standard Chartered, Hong Kong Branch as stated in them immediately prior to the appointed day;
 - (b) the undertaking of Manhattan Card Company shall be transferred to Standard Chartered Bank (Hong Kong) at its carrying value in the accounts of Manhattan Card Company as stated in them immediately prior to the appointed day;
 - (c) the undertaking of Standard Chartered Finance shall be transferred to Standard Chartered Bank (Hong Kong) at its carrying value in the accounts of Standard Chartered
-

Finance as stated in them immediately prior to the appointed day;

- (d) the undertaking of Standard Chartered International shall be transferred to Standard Chartered Bank (Hong Kong) at its carrying value in the accounts of Standard Chartered International as stated in them immediately prior to the appointed day;
- (e) the undertaking of Chartered Capital shall be transferred to Standard Chartered Bank (Hong Kong) at its carrying value in the accounts of Chartered Capital as stated in them immediately prior to the appointed day; and
- (f) the amount, description and character of every reserve of Standard Chartered Bank (Hong Kong) shall be the same in all respects as those of the corresponding existing reserve of the transferring entities immediately prior to the appointed day, and all enactments and rules of law shall apply to or in respect of every such reserve of Standard Chartered Bank (Hong Kong) in the same manner in all respects as they applied to or in respect of the corresponding existing reserve of the transferring entity immediately prior to the appointed day.

(2) Every reference in subsection (1)(f) to an existing reserve of a transferring entity shall include a reference to any reserve or similar provision, irrespective of its name or designation (and whether the amount thereof be positive or negative in nature) and, without prejudice to the generality of the foregoing, every such reference shall include a reference to any sums standing to the credit (or debit) of any profit and loss account.

10. Taxation and revenue matters

(1) For the purposes of the Inland Revenue Ordinance (Cap. 112), on and from the appointed day Standard Chartered Bank (Hong Kong) shall be treated as if it were the continuation of and the same person in law with regard to the undertakings as the transferring entities.

(2) Accordingly (and without affecting the generality of subsection (1)) a vesting or deemed vesting in Standard Chartered Bank (Hong Kong) of any property or liability by virtue of this Ordinance does not constitute a sale or other divestiture of or a change in the nature of that property or the liability for any purpose under the Inland Revenue Ordinance (Cap. 112).

(3) The profits or losses of the transferring entities arising in the year of assessment in which the appointed day occurs, and for the period ended immediately prior to the appointed day, shall be taken into account for the purpose of computing the profits and losses of the transferring entities which are chargeable to tax under Part IV of the Inland Revenue Ordinance (Cap. 112) for the year of assessment in which the appointed day occurs.

(4) The profits or losses arising from the undertakings of the transferring entities transferred to Standard Chartered Bank (Hong Kong) for any period commencing on or after the appointed day shall be taken into account for the purpose of computing the profits and losses of Standard Chartered Bank (Hong Kong) which are chargeable to tax under Part IV of the Inland Revenue Ordinance (Cap. 112).

11. Contracts of employment

(1) Section 8(a) shall apply to a contract for the employment of any person by a transferring entity and employment with a transferring entity and Standard Chartered Bank (Hong Kong) under any such contract shall be deemed for all purposes to be a single continuing employment.

(2) No director, secretary or auditor of a transferring entity shall by virtue only of this Ordinance become a director, secretary or auditor, as the case may be, of Standard Chartered Bank (Hong Kong).

12. 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 for the benefit of employees of the transferring entities, and the gratuity benefits payable by the transferring entities, 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 transferring entities there were substituted a reference to Standard Chartered Bank (Hong Kong).

(2) No officer or employee of a transferring entity who becomes an officer or employee of Standard Chartered Bank (Hong Kong) by virtue of this Ordinance shall, by virtue only of this Ordinance, be entitled to participate in any pension fund scheme of, provident fund scheme of, or gratuity benefits payable by Standard Chartered Bank (Hong Kong), and no existing officer or employee of Standard Chartered Bank (Hong Kong) shall, by virtue only of this Ordinance, be entitled to participate in any pension fund scheme of, provident fund scheme of, or gratuity benefits payable by a transferring entity.

13. Waiver of prohibition of merger

(1) Any provision contained in any contract or other document to which a transferring entity or Standard Chartered Bank (Hong Kong) or any of their respective subsidiaries is a party or to which Standard Chartered is a party but the rights, liabilities or any chose in action under or established by such contract or other document forms part of the undertaking of a transferring entity which prohibits or has the effect of prohibiting the transfer and vesting or deemed transfer and vesting of any of the undertakings of the transferring

entities in Standard Chartered Bank (Hong Kong) shall be deemed by this Ordinance to have been waived.

(2) Any provision contained in any contract or other document or other agreement to the effect that a breach of contract or a default shall occur or be deemed to occur as a result of the transfer and vesting or deemed transfer and vesting of any of the undertakings of the transferring entities in Standard Chartered Bank (Hong Kong), and to which a transferring entity or Standard Chartered Bank (Hong Kong) or any of their respective subsidiaries is a party or to which Standard Chartered is a party but the rights, liabilities or any chose in action under or established by such contract or other document or other agreement forms part of the undertaking of a transferring entity, shall be deemed by this Ordinance to have been waived.

14. Evidence: books and documents

(1) All books and other documents which would, prior to the appointed day, have been evidence in respect of any matter for or against a transferring entity shall be admissible in evidence in respect of the same matter for or against Standard Chartered Bank (Hong Kong).

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

15. 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 transferring banks vested or deemed to be vested in Standard Chartered Bank (Hong Kong) by virtue of this Ordinance, and to entries made in those records prior to the appointed day, as if such records were the records of Standard Chartered Bank (Hong Kong).

(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 Standard Chartered Bank (Hong Kong) by virtue of this Ordinance shall be

deemed to have been the ordinary banker's records of Standard Chartered Bank (Hong Kong) at the time of the making of an entry therein which purports to have been made prior to 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 transferring entities shall by virtue of this Ordinance be deemed to be documents previously in the custody or control of Standard Chartered Bank (Hong Kong).

(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).

16. Evidence of vesting and transfer

(1) The production of a Government Printer's copy of this Ordinance shall, for all purposes, be conclusive evidence of the vesting and transfer or deemed vesting and transfer of the undertakings or any part of them of the transferring entities in Standard Chartered Bank (Hong Kong) 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 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, Standard Chartered Bank (Hong Kong) 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 transferring entities to Standard Chartered Bank (Hong Kong);
- (b) any deed or other document made or executed on or after the appointed day, whereby Standard Chartered Bank (Hong Kong) or a transferring entity, 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 transferring entity immediately prior to the appointed day and forming part of the undertakings, whether alone or jointly with any other person, shall be sufficient evidence that, the interest of the transferring entity in that property is vested or deemed to be vested in Standard Chartered Bank (Hong Kong) under this Ordinance;

- (c) where there is any other transaction or purported transaction by Standard Chartered Bank (Hong Kong) or a transferring entity on or after the appointed day in connection with, or in relation to, any property or liabilities which are property or liabilities of the transferring entities immediately prior to that day and forming part of the undertakings, it shall be deemed in favour of any other party to the transaction, or any person claiming through or under him, that Standard Chartered Bank (Hong Kong) 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 Standard Chartered Bank (Hong Kong) at any time that any property or liabilities specified in the certificate (which property or liabilities immediately prior to the appointed day are the property or liabilities of a transferring entity) are or, as the case may be, are not, deemed to be vested in Standard Chartered Bank (Hong Kong) under this Ordinance, shall

be conclusive evidence for all purposes of the fact so certified.

(3) Nothing in subsection (2)(c) or (d) shall affect the liability of Standard Chartered Bank (Hong Kong) and each of the transferring entities to one another 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.

(4) In subsection (2) –

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

(5) Nothing in this section applies to any property and liabilities falling within section 5(2).

17. Interests in land

(1) The vesting or deemed vesting in Standard Chartered Bank (Hong Kong) 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) operate so as to merge any leasehold interest in the reversion expectant on it; or
- (d) 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
- (e) operate as a breach of covenant or condition against alienation; or
- (f) give rise to any forfeiture, damages or other right of action; or
- (g) invalidate or discharge any contract or security interest; 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 registrations of any instruments relating to land or interests in land in the name of a transferring entity (whether alone or with any other person) immediately prior to the appointed day shall be construed and have effect on and from the appointed day as if the name "Standard Chartered Bank (Hong Kong) Limited 渣打銀行（香港）有限公司" had been entered on the land register instead of the name of such transferring entity.

(3) To enable Standard Chartered Bank (Hong Kong) to complete title, if thought fit, to any property transferred to it and 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 an assignment, conveyance, transfer or, as the case may be, an instrument of a general disposition of such property in favour of Standard Chartered Bank (Hong Kong) and the production of a Government Printer's copy of this Ordinance shall be

conclusive evidence of this Ordinance for the purpose of proving or deducing title in favour of Standard Chartered Bank (Hong Kong).

(4) For the purpose of enabling the public to be informed of this Ordinance through the public records at the Land Registry in relation to the properties or interests in land affected by this Ordinance, Standard Chartered Bank (Hong Kong) shall register or cause to be registered in the Land Registry a Government Printer's copy of this Ordinance against a property transferred to it and vested or deemed to be vested in it by virtue of this Ordinance in respect of the vesting of all the properties of the transferring entities or Standard Chartered, in the case of some properties, held on behalf of or which form part of the undertaking of Standard Chartered, Hong Kong Branch transferred to and vested or deemed to be vested in Standard Chartered Bank (Hong Kong) by virtue of this Ordinance.

(5) For the avoidance of doubt, nothing in this section shall exempt Standard Chartered Bank (Hong Kong) and the transferring entities from the provisions of the Stamp Duty Ordinance (Cap. 117).

18. Saving for other enactments

Nothing in this Ordinance shall exempt Standard Chartered Bank (Hong Kong) or a transferring entity or any subsidiary of Standard Chartered Bank (Hong Kong) or a transferring entity from the provisions of any enactment regulating the carrying on of the business of any of them.

19. Saving for companies

Nothing in this Ordinance shall prejudice the powers of Standard Chartered Bank (Hong Kong) to alter its memorandum and articles of association 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 any member of the Standard Chartered Group to alter its

memorandum and articles of association or to dispose of, or deal with, its property, security interests or liabilities prior to the appointed day.

20. 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 transfer the undertakings of the Hong Kong branch of Standard Chartered Bank, Manhattan Card Company Limited, Standard Chartered Finance Limited, Standard Chartered International Trade Products Limited and Chartered Capital Corporation Limited to Standard Chartered Bank (Hong Kong) Limited. Standard Chartered Bank and Manhattan Card Company Limited are authorized institutions licensed under the Banking Ordinance (Cap. 155). Standard Chartered Bank is incorporated under the laws of England and Wales by way of Royal Charter. Manhattan Card Company Limited is incorporated under the laws of Hong Kong.

2. The Bill provides for the vesting or deemed vesting of the undertakings of the Hong Kong branch of Standard Chartered Bank, Manhattan Card Company Limited, Standard Chartered Finance Limited, Standard Chartered International Trade Products Limited and Chartered Capital Corporation Limited in Standard Chartered Bank (Hong Kong) Limited on the appointed day (clause 5), the reduction of share capital of Manhattan Card Company Limited, Standard Chartered Finance Limited and Chartered Capital Corporation Limited and the revocation of the restricted banking licence of Manhattan Card Company Limited on and from a day to be appointed by the Monetary Authority (clause 4) and, subject to the approval of the Chief Executive in Council and the terms and

conditions specified by the Financial Secretary, the assumption of the note issuing functions of Standard Chartered Bank by Standard Chartered Bank (Hong Kong) Limited and related matters (clause 7). It also contains a number of supplementary provisions relating, inter alia, to the accounting treatment for the Hong Kong branch of Standard Chartered Bank, Manhattan Card Company Limited, Standard Chartered Finance Limited, Standard Chartered International Trade Products Limited and Chartered Capital Corporation Limited (clause 9), taxation matters (clause 10), the relationship with customers, borrowers, employees and other parties (clauses 8, 11, 12 and 13), evidence (clauses 14 to 16) and interests in land (clause 17).

SLAUGHTER AND MAY
Solicitors for
Standard Chartered Bank
Manhattan Card Company Limited
Standard Chartered Finance Limited
Standard Chartered International Trade Products Limited
Chartered Capital Corporation Limited
