

A BILL

To

Amend the Loans Ordinance so that money raised by the Government by alternative bonds issued under a specified alternative bond scheme set up by the Government is treated as money borrowed by the Government and may be credited into the Bond Fund; to make a related amendment to the Resolution of the Legislative Council establishing the Bond Fund; and to amend the Inland Revenue Ordinance to exempt from profits tax certain amounts derived from those bonds.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title

This Ordinance may be cited as the Loans (Amendment) Ordinance 2014.

Part 2

Amendments to Loans Ordinance

2. Loans Ordinance amended

The Loans Ordinance (Cap. 61) is amended as set out in sections 3, 4 and 5.

3. Section 2 amended (interpretation)

Section 2, definition of *borrow*—

Repeal the semicolon

Substitute

“, and includes to borrow within the meaning of section 2A(2);”.

4. Section 2A added

After section 2—

Add

“2A. Meanings of *borrow*, *interest* and *principal* in case of specified alternative bond scheme

(1) This section applies if—

(a) a specified alternative bond scheme is set up—

(i) with the Government as the originator under the specified investment arrangement in the scheme; and

(ii) with a special purpose vehicle, established by the Government, as the bond-issuer under the scheme;

(b) alternative bonds are issued by the bond-issuer under the bond arrangement in the scheme;

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- (c) bond proceeds from the issue of alternative bonds are received by the bond-issuer under the bond arrangement;
 - (d) the Government receives a sum representing the bond proceeds (whether directly from the bond-issuer or otherwise) under the specified investment arrangement;
 - (e) the Government agrees to pay certain sums under the specified investment arrangement, which sums are—
 - (i) to be received by the bond-issuer (whether directly from the Government or otherwise); and
 - (ii) to be used by the bond-issuer for payment of the redemption payment and additional payments payable under the bond arrangement; and
 - (f) the bond arrangement is a qualified bond arrangement and the specified investment arrangement is a qualified investment arrangement.
- (2) In this Ordinance—
- (a) the sum received by the Government as mentioned in subsection (1)(d) is regarded as a sum borrowed by the Government from the bond-issuer; and
 - (b) references to borrow and principal are to be construed accordingly.
- (3) In this Ordinance—
- (a) the sums agreed to be paid by the Government as mentioned in subsection (1)(e), if they are to be used for payment of the additional payments concerned, are regarded as interest agreed to be paid by the Government on the sum regarded under subsection (2) as being borrowed; and

- (b) a reference to interest is to be construed accordingly.
- (4) In this section, an expression specified below has the same meaning as it has in Schedule 17A to the Inland Revenue Ordinance (Cap. 112)—
- additional payments* (額外付款)
- alternative bond* (另類債券)
- bond arrangement* (債券安排)
- bond-issuer* (發債人)
- bond proceeds* (發債所得)
- originator* (發起人)
- qualified bond arrangement* (合資格債券安排)
- qualified investment arrangement* (合資格投資安排)
- redemption payment* (贖債付款)
- special purpose vehicle* (特定目的工具)
- specified alternative bond scheme* (指明另類債券計劃)
- specified investment arrangement* (指明投資安排)”.

5. Section 3 amended (power to borrow)

Section 3(4)—

Repeal

everything after “, which relates”

Substitute

“to—

- (a) the issue of any bond, promissory note or other instrument under section 4; or
- (b) a borrowing within the meaning of section 2A(2).”.

Part 3

Related Amendments

Division 1—Enactments Amended

6. Enactments amended

The enactments specified in Divisions 2 and 3 are amended as set out in those Divisions.

Division 2—Amendment to Resolution of the Legislative Council Establishing Bond Fund (Cap. 2 sub. leg. S)

7. Paragraph (ea) added

After paragraph (e)—

Add

“(ea) for sums borrowed in the manner mentioned in section 2A of the Loans Ordinance (Cap. 61), the power under paragraph (e) includes—

- (i) paying the sums referred to in subsection (1)(e) of that section; and
- (ii) paying the expenses incurred in relation to the borrowing;”.

Division 3—Amendments to Inland Revenue Ordinance (Cap. 112)

8. Section 26A amended (exclusion of certain profits from tax)

(1) After section 26A(1)(c)—

Add

“(ca) additional payments paid or payable on an alternative bond issued in connection with a borrowing by the Government within the meaning of section 2A(2) of the Loans Ordinance (Cap. 61);

(cb) any profit on the sale or other disposal of, or on the receipt of redemption payment for, such an alternative bond;”.

(2) Section 26A(2), Chinese text, definition of 證監會—

Repeal the full stop

Substitute a semicolon.

(3) Section 26A(2)—

Add in alphabetical order

“*additional payments* (額外付款) has the same meaning as it has in Schedule 17A;

redemption payment (贖債付款) has the same meaning as it has in Schedule 17A;”.

9. Schedule 17A amended (specified alternative bond scheme and its tax treatment)

Schedule 17A—

Repeal

“[ss. 5B(7), 14A(6), 15(3A), 16(4A), 20AC(7), 26A(4)]”

Substitute

“[ss. 5B(7), 14A(6), 15(3A), 16(4A), 20AC(7), 26A(2) & (4)]”.

Explanatory Memorandum

A fund known as the “Bond Fund” was established by a resolution made and passed by the Legislative Council under section 29 of the Public Finance Ordinance (Cap. 2) on 8 July 2009 (*Bond Fund Resolution*). Another resolution was made and passed by the Legislative Council under section 3 of the Loans Ordinance (Cap. 61) (*Loans Ordinance*) to authorize the Government to borrow for the purposes of the Bond Fund. The main purpose of this Bill is to amend the Loans Ordinance so that money raised by the Government by alternative bonds issued under a specified alternative bond scheme set up by the Government (*the scheme*) is treated as money borrowed by the Government and may be credited into the Bond Fund.

2. Part 1 of the Bill contains a preliminary provision. Clause 1 sets out the short title. The Loans (Amendment) Ordinance 2014 comes into operation on the day on which it is published in the Gazette.
3. Part 2 of the Bill amends the Loans Ordinance. The main provision is clause 4 which adds a new section 2A to the Loans Ordinance. Under that new section, money raised by the Government by alternative bonds issued under the scheme is regarded as money borrowed by the Government. Any sum paid or payable by the Government that is to be used for payment of additional payments payable under the scheme is regarded as interest paid or payable by the Government on the money so borrowed.
4. Part 3 of the Bill contains related amendments to the Bond Fund Resolution and the Inland Revenue Ordinance (Cap. 112) (*Inland Revenue Ordinance*).

5. The amendment to the Bond Fund Resolution in Division 2 of Part 3 of the Bill enables the Financial Secretary to expend money from the Bond Fund for making redemption payment and additional payments under the scheme and paying the expenses in relation to the borrowing.
6. The amendments to the Inland Revenue Ordinance are contained in Division 3 of Part 3 of the Bill. Additional payments received under the scheme, and profits on the sale or other disposal of, or on the receipt of redemption payment for, any alternative bond under the scheme, will be exempt from profits tax under that Ordinance.