

# **Deposit Protection Scheme (Amendment) Bill 2015**

**16 December 2015**

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# Deposit Protection Scheme (DPS)

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- ▶ Fully implemented by Hong Kong Deposit Protection Board (HKDPB) in 2006
- ▶ Compensation limit: HK\$500,000 per depositor per bank
- ▶ All licensed banks are members of DPS (unless exempt)
- ▶ Deposits denominated in HKD and other currencies are protected
- ▶ Current DPS Fund size: around HK\$2.8 billion
- ▶ Never been triggered since its establishment



# Justifications

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- ▶ Deposit protection as safety net in banking system
- ▶ Reforms in major markets to strengthen deposit protection regimes and make prompter payouts
- ▶ Existing set off requirement under the Ordinance is an impediment to shortening the payout timeframe.



# Proposed Legislative Amendments

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## (i) Adopting the gross payout

- ▶ Existing requirements: setting off of liabilities owed by a depositor to the relevant bank in determining compensation (i.e. net payout)
  - ▶ Reimbursement of the compensation paid by HKDPB also carried out on a net basis
- ▶ To switch from net to gross basis (i.e. a depositor will be compensated an amount without setting off liabilities owed to the same bank against protected deposits at the time of payout) (up to HK\$500,000)



# Proposed Legislative Amendments (con't)

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## (i) Adopting the gross payout (con't)

- ▶ Shortening the payout timeframe to 7 days
- ▶ HKDPB will recover from the bank's assets for the amount of compensation paid out
- ▶ Current creditor hierarchy in insolvency regime and obligation of depositors to repay outstanding debt to the bank or its liquidator remain unchanged
- ▶ Level of premium rates applicable to banks remains unchanged, and HKDPB will calculate contributions payable by banks on a gross basis with reference to protected deposits



# Proposed Legislative Amendments (con't)

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## (ii) Enhancing certainty for determination of the quantification date

- ▶ Quantification date (QD): a reference date for compensation determination (including interests and conversion of other currencies)
- ▶ Propose defining the QD as date of the “specified event” viz. the earlier of:
  - ▶ Court of First Instance making a winding-up order in respect of a bank; or
  - ▶ Monetary Authority serving on HKDPB a notice of its decision that DPS should be triggered.
- ▶ Greater clarity and certainty for triggering DPS and help speed up payouts



# Proposed Legislative Amendments (con't)

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## (iii) Enabling the use of electronic notices

- ▶ Upon triggering of DPS, HKDPB will notify depositors of compensation entitlements by conventional paper-form communication as per the present arrangement
- ▶ Propose empowering HKDPB to, other than paper-form notices, send electronic notices
- ▶ Enable HKDPB to accelerate notification process
- ▶ Depositors not used to receiving electronic communication from bank will continue to receive conventional paper notices





# Main Provisions of the Bill

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- ▶ Clause 3 – amends section 25 to revise definition of “quantification date”
- ▶ Clause 4 – amends section 27 so that, in determining the amount of compensation, liabilities owed by depositor to the failed Scheme member are not taken into account



# Main Provisions of the Bill (con't)

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- ▶ Clause 5 – amends section 32 to enable HKDPB to issue electronic notices to affected depositors
- ▶ Clause 8 – adds new section 38(1A), (1B) and (1C) to provide for the amount recoverable by HKDPB from, or out of the assets of, the bank, under the gross payout approach



# Main Provisions of the Bill (con't)

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- ▶ Clauses 9 and 11 contain consequential amendments
- ▶ Clause 10 provides for transitional matters



# Consultation

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- ▶ Consulted public and banking industry in Q4 last year. Responses indicated support.
- ▶ Legislative Council Panel on Financial Affairs was briefed on 4 May 2015. Panel supported the proposals.



# Implementation

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- ▶ Commence operation after gazettal of the Amendment Ordinance
- ▶ Net payout approach will still apply to –
  - ▶ all matters arising from a “specified event” occurred before the commencement date
  - ▶ determination of the amount of banks’ contributions for 2016



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- End -

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