

Legislative Council
Panel on Financial Affairs

Proposed Amendments to
the Banking Ordinance

16 March 2017

Objectives

- Introduce rule-making power, to replace provisions in Part XV of the Banking Ordinance, for the purpose of prescribing limits on large exposures;
- Introduce explicit provisions into the Banking Ordinance relating to recovery planning by banks.

Justifications

- To implement new international standards on large exposures issued by the Basel Committee on Banking Supervision and replace outdated provisions in Part XV;
- To provide greater transparency and certainty as regards recovery planning, reflecting the Financial Stability Board's international standard – “Key Attributes of Effective Resolution Regimes for Financial Institutions”.

Banking Ordinance Part XV

Part XV currently contains limitations on AIs' exposures:

- Section 80 advances against security of own shares
- Section 81 single (large) counterparties
- Section 83 connected counterparties
- Section 85 employees of AIs
- Section 87 shareholdings by AIs
- Section 88 holdings of land and buildings
- Section 90 aggregate of exposures under s83, 87 and 88

Rule-Making Power

- Rules will set out new exposure limits
- Rules will be subsidiary legislation subject to consultation and negative vetting by the Legislative Council
- Propose power for MA to vary exposure limit requirements for individual AIs – if satisfied on reasonable grounds it is prudent to do so

Rules vis-à-vis Part XV

- Section 80 – extend scope of restricted security to cover regulatory capital instruments in addition to shares
- Section 81 – reflect BCBS revised large exposures framework (issued in 2014) which sets limits by reference to percentage of Tier 1 capital
- Section 83 – align definitions of financial exposure with those to be adopted from BCBS framework and rebase limits to Tier 1 capital
- Section 87 – extend scope of restricted securities to include wider range of equity exposures than shares and rebase limits to Tier 1 capital
- Sections 88 & 90 – rebase limits to Tier 1 capital

Recovery Planning

A Recovery Plan should contain a range of recovery options which could be deployed by an AI to stabilise and restore the financial resources and the viability of the AI should it encounter circumstances of stress that might pose a significant threat to its financial soundness or viability

Recovery Planning

- Preparation, maintenance and submission to MA of Recovery Plan
- Notification to MA of any trigger event or any deployment of a recovery action under the Recovery Plan
- The MA may give directions to an AI with respect to its Recovery Plan – (i) to ensure the Recovery Plan is fit for purpose; (ii) to make changes to address any deficiencies; and (iii) as a last resort, to implement its Recovery Plan if the AI is delaying implementation and thereby imperilling the viability of the AI
- Locally incorporated holding companies of AIs to prepare and maintain Recovery Plans if so required by the MA.

Industry feedback (1)

- Banking industry provided comments on the proposed reform of Part XV and the Recovery Planning requirements during consultation
- Generally supportive of initiatives regarding large exposures for sake of greater consistency in way banks and supervisors measure, aggregate and control large exposures and of underlying objective to promote resilience in the banking sector
- Requested to align large exposures reforms with the BCBS timetable

Industry feedback (2)

- Suggestions on technical/operational aspects of the proposed exposure limits framework
- Supportive of codifying Recovery Planning requirements into the Banking Ordinance and the proposed powers for the MA; submitting that
 - a proportionate approach should be adopted in implementing the Recovery Planning requirements

Way forward

- Plan to introduce the Bill into the Legislative Council later this year
- Allow time for rule-making process and for AIs to prepare for the implementation of the new rules in accordance with internationally agreed timetable