

## **LEGISLATIVE COUNCIL BRIEF**

### **BANKING ORDINANCE (Cap. 155)**

#### **Banking (Capital) (Amendment) Rules 2023 (Commencement) Notice 2024**

## **INTRODUCTION**

Pursuant to section 1(2) of the Banking (Capital) (Amendment) Rules 2023, L.N. 167 of 2023 (“BCAR”), the Monetary Authority<sup>1</sup> has made the Banking (Capital) (Amendment) Rules 2023 (Commencement) Notice 2024 (“Commencement Notice”) (at Annex) for appointing 1 January 2025 as the day on which Parts 3 and 5 of the BCAR come into operation, except for certain sections (see paragraph 5 below).

## **JUSTIFICATION**

2. The BCAR was approved by negative vetting of the Legislative Council on 7 February 2024. Its main purpose is to introduce amendments to the Banking (Capital) Rules, Cap. 155L (“BCR”) so as to incorporate the revised capital standards of the Basel III final reform package, as appropriate.

3. Basel III is an international regulatory standard developed by the Basel Committee on Banking Supervision, of which Hong Kong has been a member jurisdiction since 2009, in response to the financial crisis of 2007-2009 with a view to strengthening regulation, supervision and risk management of banks. The Basel III reform package is being implemented in phases, with the earlier phases focusing on improving the amount and quality of capital, as well as requirements on liquidity, disclosures, etc. among banks. In its final phase, the reform package focuses on enhancing comparability, calibration and disclosure of a bank’s capital requirements in relation to: (i) credit risk, (ii) market and credit valuation adjustment (“CVA”) risks, (iii) operational risk, etc.

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<sup>1</sup> i.e. the Hong Kong Monetary Authority (“HKMA”).

4. Under section 1(2) of the BCAR, Parts 3, 4 and 5<sup>2</sup> of the BCAR will come into operation on a day to be appointed by the Monetary Authority by notice published in the Gazette. The Monetary Authority has now determined that Parts 3 and 5 should commence operation on 1 January 2025. Accordingly, a Commencement Notice is made by the Monetary Authority and published in the Gazette. Part 4 is not covered by this Commencement Notice as it is to be commenced on a later date to be determined by the Monetary Authority, after taking into consideration the implementation progress of other major jurisdictions. Other than Parts 3, 4 and 5, the rest of the BCAR already commenced operation on 1 April 2024 in accordance with section 1(1) of the BCAR.

5. When the BCAR was prepared, certain transitional provisions<sup>3</sup> were included to cater for the period of time when Part 3, but not Part 5, would have commenced operation. Given that the Monetary Authority has determined that Parts 3 and 5 should commence operation on the same day (i.e. 1 January 2025), these transitional provisions need not be effected in the Commencement Notice.

## **LEGISLATIVE TIMETABLE**

6. The legislative timetable is as follows –

Publication of the Commencement Notice in the Gazette	10 October 2024
Tabling of the Commencement Notice at LegCo for negative vetting	16 October 2024
Commencement Date of Parts 3 and 5 of the BCAR	1 January 2025

## **PUBLIC CONSULTATION**

7. At the meeting of the LegCo Panel on Financial Affairs on

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<sup>2</sup> Part 3 of the BCAR provides for amendments in relation to credit risk, the output floor, operational risk and sovereign concentration risk, while Part 4 of the BCAR covers haircut floors for securities financing transactions. Part 5 of the BCAR deals with amendments in relation to market risk and CVA risk.

<sup>3</sup> For example, Section 255 in Part 3 of the BCAR amends section 359 of the BCR by adding transitional provisions to the BCR, and defines “transitional period” as the period beginning on the commencement date of Part 3 of the BCAR and ending immediately before the commencement date of Part 5 of the BCAR.

5 February 2024, the HKMA briefed members on the targeted implementation date of the Basel III final reform package being 1 January 2025 in Hong Kong. Members raised no objection to the implementation timetable.

8. The HKMA has closely engaged the banking industry in preparing the BCAR through a series of consultations since 2019, and statutory consultation conducted in October and November 2023 pursuant to the Banking Ordinance (Cap. 155).<sup>4</sup> The timing of its implementation has already taken into consideration comments received from the banking community.

## **PUBLICITY**

9. We will issue a press release upon gazettal of the Commencement Notice. The HKMA will also issue a circular letter to all authorized institutions.

## **ENQUIRIES**

10. Enquiries should be directed to Mr Justin To, Principal Assistant Secretary for Financial Services and the Treasury (Financial Services), at 2810 2067, or Mr Martin Sprenger, Head (Banking Policy) of the HKMA, at 2878 8111.

**Financial Services and the Treasury Bureau  
Hong Kong Monetary Authority  
9 October 2024**

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<sup>4</sup> Pursuant to the Banking Ordinance (Cap.155), parties consulted in the statutory consultation include the Financial Secretary, the Banking Advisory Committee, the Deposit-taking Companies Advisory Committee, the Hong Kong Association of Banks and The Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies.

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**Banking (Capital) (Amendment) Rules 2023  
(Commencement) Notice 2024**

Under section 1(2) of the Banking (Capital) (Amendment) Rules 2023 (L.N. 167 of 2023), I appoint 1 January 2025 as the day on which the following provisions of the Rules come into operation—

- (a) Part 3, except—
  - (i) sections 33(4), (6) and (20), 213, 215, 216, 246 and 247; and
  - (ii) section 255 in so far as it relates to the new section 359;
- (b) Part 5, except section 270(16) and (17).



Monetary Authority

26.9.2024