

A BILL

To

Amend the Banking Ordinance to introduce a voluntary mechanism for authorized institutions to request or disclose information for the detection or prevention of crimes; to make safe harbour provisions for authorized institutions disclosing information under the mechanism or using information so disclosed by other authorized institutions; to provide for related matters; and to make related amendments.

Enacted by the Legislative Council.

1. Short title and commencement

- (1) This Ordinance may be cited as the Banking (Amendment) Ordinance 2025.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette.

2. Banking Ordinance amended

The Banking Ordinance (Cap. 155) is amended as set out in sections 3 and 4.

3. Long title amended

The long title, after “brokers;”—

Add

“to make safe harbour provisions for authorized institutions disclosing or using information for detecting or preventing crimes;”.

4. Part XIIAA added

After Part XII—

Add**“Part XIIAA****Sharing of Information among Authorized Institutions****Division 1—Interpretation****68AA. Interpretation of Part XIIAA**

In this Part—

business relationship (業務關係), as between an entity and an authorized institution, means a business, professional or commercial relationship that—

- (a) has an element of duration; or
- (b) at the time the entity first contacts the authorized institution in the entity’s capacity as a potential customer of the authorized institution, the authorized institution expects to have an element of duration;

Cap. 615 (《第615章》) means the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615);

dealing (處理), in relation to any property, includes—

- (a) receiving or acquiring the property;
- (b) concealing or disguising the property (whether by concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it or otherwise);
- (c) disposing of or converting the property;
- (d) bringing into or removing from Hong Kong the property; and
- (e) using the property to borrow money, or as security (whether by way of charge, mortgage or pledge or otherwise);

designated platform (指定平台) means a platform designated by the Monetary Authority under section 68AAM(1);

designated platform operator (指定平台營運者), in relation to a designated platform, means the operator of the designated platform identified in a notice published under section 68AAM(1);

entity (實體) means a natural person, a body of persons (incorporated or unincorporated) or a legal arrangement, and includes—

- (a) a corporation;
- (b) a partnership; and
- (c) a trust;

information (資料) includes data, text, images, videos, sound codes and any combination of them;

JFIU officer (聯合財富情報組人員) means a public officer who is a member of the Joint Financial Intelligence Unit established and operated jointly by the Hong Kong Police Force and the Customs and Excise Department;

money laundering (洗錢)—

- (a) means dealing with any property that is the proceeds of—
 - (i) an indictable offence; or
 - (ii) any conduct that would constitute an indictable offence if it had occurred in Hong Kong; and
- (b) includes money laundering as defined by section 1 of Part 1 of Schedule 1 to Cap. 615;

occasional transaction (非經常交易) means a transaction between an authorized institution and an entity that does not have a business relationship with the authorized institution;

platform (平台) includes an electronic system and any other mechanism;

prohibited conduct (受禁行為) means—

- (a) money laundering;
- (b) terrorist financing as defined by section 1 of Part 1 of Schedule 1 to Cap. 615; or
- (c) financing of proliferation of weapons of mass destruction as defined by section 2(1) of the Weapons of Mass Destruction (Control of Provision of Services) Ordinance (Cap. 526);

relevant entity (相關實體), in relation to an authorized institution, means—

- (a) an entity with which the authorized institution maintains or has maintained a business relationship; or
- (b) an entity for which the authorized institution has conducted or has been requested to conduct an occasional transaction.

Division 2—Safe Harbour for Sharing of Information

68AAB. Request for information from other authorized institutions

- (1) An authorized institution (*institution A*) may in the circumstances specified in subsection (2) request from another authorized institution (*institution B*)—
 - (a) information that relates to—
 - (i) a relevant entity of institution A (*entity A*); or
 - (ii) an entity (*associated entity A*), account or transaction associated with—
 - (A) entity A; or
 - (B) an occasional transaction that institution A has conducted or has been requested to conduct for entity A; or
 - (b) information that relates to—
 - (i) an entity that institution A has reasonable grounds to believe is a relevant entity of institution B (*entity B*); or
 - (ii) an entity (*associated entity B*), account or transaction associated with—
 - (A) entity B; or

- (B) an occasional transaction that institution B has conducted or may have conducted for entity B,
- without having to obtain the consent of entity A, entity B, associated entity A, associated entity B or any other entity associated with the account or transaction.
- (2) The circumstances are that—
- (a) institution A becomes aware of one or more activities—
- (i) by entity A, entity B, associated entity A or associated entity B; or
- (ii) in relation to the account or transaction associated with entity A or entity B or associated with an occasional transaction referred to in subsection (1)(a)(ii)(B) or (b)(ii)(B) (*associated account or transaction*), that in the opinion of institution A warrant inquiries by institution A for assessing whether the entity or associated account or transaction may be, or may have been, involved in or associated with any prohibited conduct;
- (b) institution A knows that institution B has, or has reasonable grounds to believe that institution B is likely to have, information relating to the entity or associated account or transaction that may assist institution A in its inquiries for detecting or preventing any prohibited conduct; and

- (c) institution A has reasonable grounds to believe that seeking the consent referred to in subsection (1) would risk prejudicing institution A's conduct of the inquiries referred to in paragraph (b).
- (3) Institution A may, in a request under subsection (1), disclose any information to institution B without having to obtain the consent of any entity to which the information relates, if institution A has reasonable grounds to believe that—
 - (a) the information—
 - (i) is relevant to the request; and
 - (ii) may assist institution B to respond to the request; and
 - (b) seeking the consent would risk prejudicing institution A's conduct of the inquiries referred to in subsection (2)(b).
- (4) A request under subsection (1)—
 - (a) may only be made on a designated platform, except with the Monetary Authority's prior written approval for the request to be otherwise made; or
 - (b) if the Monetary Authority has given prior written approval for the request to be made otherwise than on a designated platform—may only be made in compliance with any condition that the Monetary Authority imposes on the approval.
- (5) A request under subsection (1) must—
 - (a) state that it is made under subsection (1);
 - (b) identify—

- (i) the entity, account or transaction that is the subject of the request; and
- (ii) the information that is disclosed for the purposes of this Part; and
- (c) state the grounds for institution A to believe that the information requested may assist institution A in its inquiries referred to in subsection (2)(b).

68AAC. Disclosure of information to other authorized institutions

- (1) In response to a request from an authorized institution (*requesting institution*) under section 68AAB(1), the authorized institution to which the request is made (*requested institution*) may in the circumstances specified in subsection (2) disclose to the requesting institution—
 - (a) any information that relates to an entity, account or transaction identified in the request; or
 - (b) subject to subsection (3), any information that relates to an entity, account or transaction not identified in the request,
without having to obtain the consent of any entity to which the information relates.
- (2) The circumstances are that the requested institution has reasonable grounds to believe that—
 - (a) the disclosure may assist the requesting institution in its inquiries referred to in section 68AAB(2)(b); and

- (b) seeking the consent referred to in subsection (1) would risk prejudicing the requesting institution's conduct of the inquiries.
- (3) Subsection (1)(b) does not apply unless the requested institution has reasonable grounds to believe that the entity, account or transaction is associated with an entity, account or transaction identified in the request.
- (4) An authorized institution (*disclosing institution*) may in the circumstances specified in subsection (5) disclose on its own initiative to another authorized institution (*receiving institution*) any information that relates to—
 - (a) a relevant entity of the disclosing institution; or
 - (b) an entity (*associated entity*), account or transaction (*associated account or transaction*) associated with—
 - (i) the relevant entity; or
 - (ii) an occasional transaction that the disclosing institution has conducted or has been requested to conduct for the relevant entity,without having to obtain the consent of any entity to which the information relates.
- (5) The circumstances are that—
 - (a) the disclosing institution becomes aware of one or more activities—
 - (i) by the relevant entity or associated entity; or
 - (ii) in relation to the associated account or transaction,

- that the disclosing institution has reasonable grounds to believe indicate that the entity or associated account or transaction may be, or may have been, involved in or associated with any prohibited conduct;
- (b) the disclosing institution is of the opinion that the information may assist the receiving institution in detecting or preventing any prohibited conduct; and
 - (c) the disclosing institution has reasonable grounds to believe that seeking the consent referred to in subsection (4) would risk prejudicing the receiving institution's detection or prevention of any prohibited conduct.
- (6) A disclosure under subsection (1) or (4)—
- (a) may only be made on a designated platform, except with the Monetary Authority's prior written approval for the disclosure to be otherwise made; or
 - (b) if the Monetary Authority has given prior written approval for the disclosure to be made otherwise than on a designated platform—may only be made in compliance with any condition that the Monetary Authority imposes on the approval.
- (7) A disclosure under subsection (1) or (4) must identify the information that is disclosed for the purposes of this Part.

68AAD. Onward disclosure of information to other authorized institutions

- (1) Subsection (2) applies if an authorized institution (*disclosing institution*) has disclosed any information to another authorized institution (*receiving institution*) under section 68AAC(4).
- (2) The receiving institution may in the circumstances specified in subsection (3) disclose the information to another authorized institution (*further institution*) without having to obtain the consent of any entity to which the information relates.
- (3) The circumstances are that—
 - (a) the receiving institution has reasonable grounds to believe that any entity, account or transaction to which the information relates may be, or may have been, involved in or associated with any prohibited conduct;
 - (b) the receiving institution is of the opinion that disclosing the information may assist the further institution in detecting or preventing any prohibited conduct; and
 - (c) the receiving institution has reasonable grounds to believe that seeking the consent referred to in subsection (2) would risk prejudicing the further institution's detection or prevention of any prohibited conduct.
- (4) Subsection (2) does not authorize the receiving institution to disclose the name of the disclosing institution or any information that may enable the disclosing institution to be identified, without the disclosing institution's prior written consent.
- (5) A disclosure under subsection (2)—

- (a) may only be made on a designated platform, except with the Monetary Authority's prior written approval for the disclosure to be otherwise made; or
 - (b) if the Monetary Authority has given prior written approval for the disclosure to be made otherwise than on a designated platform—may only be made in compliance with any condition that the Monetary Authority imposes on the approval.
- (6) A disclosure under subsection (2) must identify the information that is disclosed for the purposes of this Part.

68AAE. Correction of inaccurate information

- (1) If an authorized institution that has disclosed any information under section 68AAB(3), 68AAC(1) or (4) or 68AAD(2) (*disclosing institution*) to another authorized institution (*receiving institution*) becomes aware that the information is or has become inaccurate, the disclosing institution must correct the inaccuracy as soon as reasonably practicable after becoming aware of the inaccuracy.
- (2) If the disclosing institution that has made a correction under subsection (1) becomes aware that the correction is or has become inaccurate, the disclosing institution must correct the inaccuracy as soon as reasonably practicable after becoming aware of the inaccuracy.

- (3) The disclosing institution may, for correcting an inaccuracy under subsection (1) or (2), disclose any information to the receiving institution without having to obtain the consent of any entity to which the information relates.
- (4) A disclosure under subsection (3)—
 - (a) if the information containing the inaccuracy that the disclosure seeks to correct (*inaccurate information*) was disclosed on a designated platform—may only be made on that designated platform; or
 - (b) if the inaccurate information was disclosed otherwise than on a designated platform with the Monetary Authority's prior written approval—may only be made in compliance with any condition that the Monetary Authority imposes on the approval.
- (5) A disclosure under subsection (3) must identify the information that is disclosed for the purposes of this Part.

68AAF. Sharing of information: confidentiality requirements

- (1) Unless required or permitted by law or when ordered by a court, an authorized institution must not disclose the fact that the authorized institution has disclosed information under section 68AAB(3), 68AAC(1) or (4), 68AAD(2) or 68AAE(3).
- (2) Subsection (1) does not prohibit the fact from being disclosed to—
 - (a) a JFIU officer;
 - (b) the Monetary Authority; or

- (c) a designated platform operator.
- (3) An authorized institution to which any information is disclosed under section 68AAB(3), 68AAC(1) or (4), 68AAD(2) or 68AAE(3)—
 - (a) may only disclose the information—
 - (i) as required or permitted by law; or
 - (ii) when ordered by a court; and
 - (b) may only otherwise use the information for detecting or preventing any prohibited conduct.

68AAG. Safe harbour provisions

- (1) If the conditions specified in subsection (2) are met, a disclosure under section 68AAB(3) in a request under section 68AAB(1), or a disclosure under section 68AAC(1) or (4), 68AAD(2) or 68AAE(3)—
 - (a) is not to be treated as a breach of any restriction on disclosure of information imposed by any contract, enactment, rule of conduct or other provision; and
 - (b) does not render the authorized institution that made the disclosure liable in damages for any loss arising out of the disclosure or any act or omission in consequence of the disclosure.
- (2) The conditions are that—
 - (a) the authorized institution that made the disclosure acted in good faith and with reasonable care in making the disclosure; and
 - (b) the authorized institution complies with section 68AAF(1) in relation to the disclosure.

- (3) A disclosure under section 68AAB(3), 68AAC(1) or (4), 68AAD(2) or 68AAE(3) does not constitute an offence under—
 - (a) section 25A(5) of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405);
 - (b) section 25A(5) of the Organized and Serious Crimes Ordinance (Cap. 455); or
 - (c) section 14(6) of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575).
- (4) An authorized institution's disclosure of information under section 68AAF(3)(a) or use of information under section 68AAF(3)(b) is not to be treated as a breach of any obligation of confidence owed by the authorized institution.

Division 3—Access to Designated Platforms and Duty to Keep Records and Information

68AAH. Access to designated platforms by authorized institutions

- (1) The Monetary Authority may give a written approval for an authorized institution to access a designated platform for the purposes of this Part if the Monetary Authority is satisfied that the authorized institution has adequate systems of control for ensuring the authorized institution's compliance with the requirements under this Part.
- (2) An authorized institution may only access a designated platform for the purposes of this Part if the Monetary Authority's approval for doing so is in force.

68AAI. Duty to keep records and information

- (1) An authorized institution must keep, for a period specified in subsection (2)—
 - (a) a record of any request for information under section 68AAB(1) that it makes or receives; and
 - (b) any information that it discloses or receives under this Part.
- (2) The period is—
 - (a) if the record or information relates to an entity with which the authorized institution maintains or has maintained a business relationship—the duration of that relationship and an additional period of at least 5 years beginning on the date on which the relationship ends; or
 - (b) if the record or information relates to any other entity—a period of at least 5 years beginning on the date on which the request or disclosure is made.
- (3) The Monetary Authority may, by a written notice to an authorized institution, require the authorized institution to keep any record or information for a period specified by the Monetary Authority that is longer than that referred to in subsection (2), if—
 - (a) the Monetary Authority is satisfied that the record or information is relevant to an ongoing criminal or other investigation; or
 - (b) the record or information is relevant to any other purpose as specified by the Monetary Authority in the notice.

- (4) Despite subsection (1), an authorized institution to which a notice is given under subsection (3) must keep the relevant record or information for the period specified in the notice.
- (5) Any record or information required to be kept under this section must be kept by—
 - (a) for a record that consists of a document, or information contained in a document—
 - (i) keeping the original of the document; or
 - (ii) keeping a copy of the document in an information system; or
 - (b) for a record that consists of information, or information not contained in a document—keeping the information in an information system.
- (6) An authorized institution must produce any record or information that it keeps under this section to the Monetary Authority at the Monetary Authority's request.
- (7) In subsection (5)—
information system (資訊系統) has the meaning given by section 2(1) of the Electronic Transactions Ordinance (Cap. 553).

Division 4—Miscellaneous Provisions

68AAJ. Access to information by JFIU officers and designated platform operators

- (1) A JFIU officer may access, whether through a designated platform or otherwise—

- (a) any information disclosed under section 68AAC(4) or 68AAD(2); or
 - (b) any information disclosed under section 68AAE(3) for correcting an inaccuracy in information disclosed under section 68AAC(4) or 68AAD(2).
- (2) Despite section 120, a JFIU officer may disclose any information that the officer has accessed under subsection (1) to another JFIU officer for detecting or preventing any prohibited conduct.
 - (3) A designated platform operator may, subject to any condition that the Monetary Authority may impose, access any information disclosed on the designated platform that it operates for operating the designated platform.

68AAK. Data access requests in relation to disclosed information

For the purposes of section 20(3)(ea) of the Personal Data (Privacy) Ordinance (Cap. 486), an authorized institution, the Monetary Authority, a JFIU officer or a designated platform operator is entitled not to comply with a data access request within the meaning of section 2(1) of that Ordinance in relation to any information disclosed under section 68AAB(3), 68AAC(1) or (4), 68AAD(2) or 68AAE(3).

68AAL. Monetary Authority may issue guidelines and give directions

- (1) The Monetary Authority may issue guidelines relating to any matter under this Part by notice published in the Gazette or in another way that the Monetary Authority considers appropriate.

- (2) A notice published under subsection (1) is not subsidiary legislation.
- (3) If the Monetary Authority considers it necessary for ensuring compliance with this Part, the Monetary Authority may give a written direction to an authorized institution directing it to take an action, or refrain from taking an action, as specified in the direction.

68AAM. Designation of platforms

- (1) The Monetary Authority may, by notice published in the Gazette, designate a platform for the purposes of this Part.
 - (2) The Monetary Authority must, in a notice under subsection (1), identify the operator of the designated platform.
 - (3) A notice published under subsection (1) is not subsidiary legislation.”.
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Explanatory Memorandum

The main object of this Bill is to amend the Banking Ordinance (Cap. 155) (*Ordinance*) to—

- (a) introduce a voluntary mechanism for institutions authorized under the Ordinance (*authorized institutions*) to request or disclose information for the detection or prevention of crimes (*sharing mechanism*); and
 - (b) make safe harbour provisions for authorized institutions disclosing information under the sharing mechanism or using information so disclosed by other authorized institutions.
2. Clause 1 sets out the short title and provides for commencement.
3. Clause 3 amends the long title of the Ordinance in view of the amendments made by the Bill.
4. Clause 4 adds to the Ordinance a new Part XIIAA (sharing of information among authorized institutions). The Part contains 13 new sections (new sections 68AA to 68AAM) divided into 4 Divisions.
5. New section 68AA in Division 1 (interpretation) of the new Part XIIAA defines certain expressions used in the Part.
6. Division 2 (safe harbour for sharing of information) of the new Part XIIAA contains 6 new sections (new sections 68AAB to 68AAG). New section 68AAB provides that an authorized institution may request information from another authorized institution for detecting or preventing certain crimes.

7. New section 68AAC provides that an authorized institution may disclose information to other authorized institutions for detecting or preventing certain crimes. New section 68AAD sets out the conditions and requirements for the onward disclosure of information.
8. New section 68AAE requires an authorized institution that has disclosed any information to correct any inaccuracy in the information.
9. New section 68AAF sets out the confidentiality requirements with which an authorized institution that participates in the sharing mechanism must comply.
10. New section 68AAG contains safe harbour provisions for authorized institutions participating in the sharing mechanism. In particular, an authorized institution that discloses any information in compliance with the relevant requirements is protected from liabilities in relation to the disclosure.
11. Division 3 (access to designated platforms and duty to keep records and information) of the new Part XIIAA contains new sections 68AAH and 68AAI which respectively provide for authorized institutions to access platforms designated for the sharing mechanism, and authorized institutions' duty to keep records and information.
12. Division 4 (miscellaneous provisions) of the new Part XIIAA contains 4 new sections (new sections 68AAJ to 68AAM) which deal with miscellaneous matters relating to the sharing mechanism.