



By email < sywfung@hkma.gov.hk > and by post

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Our Ref.: C/RIF, M79226

Hong Kong Deposit Protection Board
78/F., Two International Finance Centre
8 Finance Street
Central, Hong Kong

Dear Sirs,

Guidance Note on Accrued Interest Estimations

Thank you for your letter dated 19 July 2011 inviting comments from the Hong Kong Institute of CPAs ("Institute") on the above subject.

It is noted that section 27(4)(d) of the Deposit Protection Scheme ("DPS") Ordinance gives the Hong Kong Deposit Protection Board ("DPB") the power to determine the amount of interest accrued on deposits, or liabilities, by making an estimate that is reasonable and appropriate in the circumstances of the case where there is uncertainty as to the entire accrued interest amount; the time to estimate would unduly delay compensation payments; or the calculation would not be cost beneficial. We appreciate the DPB's initiative to develop the subject guidance in order to allow the industry and the public to have a clear understanding of the conditions, principles and approaches to be adopted by the DPB when exercising its powers in relation to interest estimations.

As regards the details, we should like to offer some general comments for your further consideration.

Principles of Approximation

Paragraph 10 of the draft guidance indicates that the "principle of approximation is to adopt a "best rates" approach which will marginally overestimate compensation due to accrued interest in order to reduce the potential for residual payments needing to be made to depositors ..." (emphasis added). The impact of this principle is that a liquidator may still have to accurately calculate interest entitlement and/or to obtain court approval for adopting the approach suggested by the DPB.

Approaches

Given the possible need for further calculation of interest by a liquidator, we would suggest that the Pay-out Agent or the DPB should consult or inform the liquidator in the early stage when it is likely that an approximation policy is to be adopted so as to ensure that recalculation costs are kept to an appropriate level.



For deposit products

Paragraph 12 of the draft guidance indicates that "Where there is uncertainty as to the exact interest rate applicable to a deposit, a better interest rate will be used in accrued interest approximation". We should like to clarify how the shortfalls are subsequently redressed, and how would overpayments be ascertained/calculated.

The paragraph also indicates that if the accrued interest calculation is dependent on a balance other than the current balance at the trigger date, a reasonably better based balance will be used for the approximation of accrued interest. We should like to clarify whether the balance at the quantification date would be considered.

Bonus Interest Proposal

We suggest that whether the assumption on the criteria for bonus payment has been met should be considered on a case by case basis – or at least, stratify the entitlements and review the payments to the largest recipients.

For liability products

Revolving credit facilities

Given the reliance on approximation in the calculation, it seems that option (i) would make further adjustments in calculations easier to perform.

We should like to point out that whilst some of the options set out in the draft guidance seem to be reasonable, they should be considered in the context of the entire pay-out operation. In the absence of findings from a trial payout exercise, it would be difficult to give any definite view.

It should be noted that any overpayment by a Pay-Out Agent will be subject to claw-back or re-calculation by a liquidator. Discrepancies arising in the calculation process due to the application of estimates will need to be identified. Ultimately, the relevant cost would be passed on to the creditor, in general. Therefore, the approach adopted in the approximation of interest should reflect the overall cost of approximation and the subsequent recalculation of the amounts for the purpose of admitting claims in the liquidation.

We hope that the above comments are helpful. If you have any questions on the above or wish to discuss it further, please contact Mary Lam, the Institute's deputy director, specialist practices, on 2287 7086.

Yours faithfully,

Chris Joy
Executive Director

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