



By email (cedps@hkma.gov.hk) and by hand

15 December 2014

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Our Ref.: C/RIF, M97887

Ms. Meena Datwani
Director-General (Enforcement)
Enhancements to Deposit Protection Scheme Consultation
Hong Kong Monetary Authority
55/F, Two International Finance Centre
8 Finance Street
Central, Hong Kong

Dear Ms. Datwani,

[Consultation on Enhancements to Deposit Protection Scheme](#)

Thank you for your letter of 12 September 2014, inviting the views of the Hong Kong Institute of CPAs on proposed enhancements to the deposit protection scheme. Our Restructuring and Insolvency Faculty executive committee ("RIFEC") has considered the three questions raised in the consultation paper and its responses to them are indicated below.

***Question 1:** Do you agree that it is appropriate to adopt the proposed gross payout approach to enable rapid compensation by the Deposit Protection Scheme ("DPS")? If not, what other approaches are recommended to reduce hurdles to DPS compensation determination arising from the set-off requirements, so as to ensure a fast payout?*

RIFEC, in principle, supports the initiative to improve the speed of payment of the compensation payment. At present the time required to calculate the net compensation entitlement presents an obstacle to a fast payout. In the event of a bank default, depositor confidence depends on an effective, efficient and controlled compensation process. The longer it takes funds to be paid by the DPS, the greater the likelihood of contagion and damage to Hong Kong's reputation as a global financial centre.

At the same time, the point made at paragraph 3.10 of the consultation paper is also relevant, i.e., that, although, having received a gross pay out from the DPS, some depositors might default on the remaining part of any loan from the bank, "statistics collected from major retail banks show that the average difference between the total amounts of protected deposits calculated under the gross approach and net approach is not more than 10%, indicating that most deposits are unencumbered and therefore not subject to set-off. In addition, charge off rates for bank in Hong Kong (an indicator of problem assets) have been very low, typically less than 1% of total assets, taking into account periods of financial stress in Hong Kong such as the 1998 Asian financial crisis, the 2003 SARS period and the 2008 global financial crisis. As a result, the potential reduction in liquidated assets to be recovered by the liquidator for distribution to creditors under the gross approach would be marginal. It is also not expected that there would be a surge in the cost of the liquidator in bank recovery action."



The above statistical analysis is an important consideration, given also that the DPS is a preferential creditor under section 265 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) and that any shortfall in recoveries resulting from the gross payout approach would have a bigger impact on the general body of creditors.

Question 2: Do you agree that we should remove the uncertainties in the reference date (i.e., the quantification date) for determination of compensation payment by amending the definition of the quantification date to be the trigger date of the DPS ("TD") or the date of appointment of a provisional liquidator ("PLD"), whichever is earlier? If not, are there any other alternatives to the use of TD and PLD which may help address the same issue?

We agree that this clarification will assist the payout agents to speed up the payment of compensation in the event of the activation of the DPS. Certainty of outcome and a fast payout are essential to restoring depositor confidence, in the event of a bank failure.

Question 3: Do you agree that we should enable the Hong Kong Deposit Protection Board to have the flexibility of using electronic notice, in addition to paper notice, to handle the payout process more effectively? Do you have any other suggestions on the use of electronic notice to communicate with depositors?

We agree that electronic notice serves to speed up the communication process to depositors and assists in the dissemination of accurate and controlled information, in the event of a bank failure. We would add that all communication should come directly from the Deposit Protection Board and should include relevant contact details, in case there are enquiries about the communication. In addition, electronic notices should, for the time being, serve to supplement, not to replace, paper notice.

If you have questions in relation to the above, please do not hesitate to contact me on 2287 7084.

Yours sincerely,

Peter Tisman
Director, Advocacy and Practice Development

PMT/EC/sc