
Deposit Protection Scheme (Amendment) Ordinance 2024

Contents

Section	Page
Part 1	
Preliminary	
1.	Short title and commencement A1759
2.	Enactments amended A1761
Part 2	
Amendments to Deposit Protection Scheme Ordinance (Cap. 581)	
3.	Section 2 amended (interpretation) A1763
4.	Section 27 amended (entitlement to compensation: general) A1763
5.	Sections 27A, 27B and 27C added A1765
27A.	Interpretation of sections 27A, 27B and 27C A1765
27B.	Time-limited enhanced protection limit following qualifying arrangement of Scheme members A1769
27C.	Notice to depositors about enhanced protection A1775
6.	Section 35 amended (maximum amount of compensation payable to a depositor) A1777
7.	Section 38 amended (subrogation) A1777

Section	Page
8. Section 50 amended (defences)	A1777
9. Section 50A added	A1779
50A. Reasonable excuse	A1779
10. Section 58 added	A1779
58. Transitional provisions in relation to Deposit Protection Scheme (Amendment) Ordinance 2024	A1779
11. Schedule 4 amended (contributions to Fund)	A1781
12. “表述” substituted for “申述”	A1783

Part 3

**Amendments to Deposit Protection Scheme (Representation on Scheme
Membership and Protection of Financial Products under Scheme) Rules
(Cap. 581 sub. leg. A)**

13. Section 2 amended (interpretation)	A1785
14. Section 3 amended (display of Membership Sign)	A1787
15. Section 3A added	A1787
3A. Display of simplified Membership Sign: electronic banking platform	A1789
16. Section 4 amended (membership representations in advertisements)	A1793
17. Section 6A amended (disclosure as to financial products offered on or after 1 January 2011)	A1793
18. Section 6CA added	A1795

Section	Page
6CA. Disclosure not required if person who invests in financial products is private banking customer	A1795
19. Section 8 amended (offences)	A1797
20. Schedule amended (Membership Sign)	A1797
21. “表述” substituted for “申述”	A1801

Part 4

Related Amendments to Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32)

22. Section 2 amended (interpretation)	A1803
23. Section 265 amended (preferential payments)	A1803
24. Section 265A amended (interpretation of Subdivision 2)	A1805

HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 19 OF 2024



John KC LEE
Chief Executive
11 July 2024

An Ordinance to amend the Deposit Protection Scheme Ordinance and its subsidiary legislation to enhance the Deposit Protection Scheme by raising the deposit protection limit for depositors, adjusting the build-up levy mechanism, enhancing the protection of depositors in the event of bank mergers or acquisitions, and improving the regulation of the representation on membership of the Scheme and the protection of financial products under the Scheme; and to provide for related matters.

[1 October 2024]

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Deposit Protection Scheme (Amendment) Ordinance 2024.
- (2) Subject to subsection (3), this Ordinance comes into operation on 1 January 2025.

Deposit Protection Scheme (Amendment) Ordinance 2024

Part 1
Section 2

Ord. No. 19 of 2024
A1761

(3) This Part and sections 4(2) and (4), 7, 10, 11, 14(3), 16(3), 17, 18 and 20(4) come into operation on 1 October 2024.

2. Enactments amended

The enactments specified in Parts 2, 3 and 4 are amended as set out in those Parts.

Part 2

Amendments to Deposit Protection Scheme Ordinance (Cap. 581)

3. **Section 2 amended (interpretation)**

After section 2(4)—

Add

“(5) A note located in the text of this Ordinance is provided for information only and has no legislative effect.”.

4. **Section 27 amended (entitlement to compensation: general)**

(1) Section 27(1), after “deposits concerned”—

Add

“, subject to the specified provisions,”.

(2) Section 27(1)—

Repeal

“shall not exceed \$500,000”

Substitute

“is not to exceed \$800,000”.

(3) Section 27(2), after “that trust”—

Add

“, subject to the specified provisions,”.

(4) Section 27(2)—

Repeal

“shall not exceed \$500,000”

Substitute

“is not to exceed \$800,000”.

- (5) Section 27(3), English text, definition of *specified amount*, paragraph (b)—

Repeal

“date.”

Substitute

“date;”.

- (6) Section 27(3)—

Add in alphabetical order

“*specified provisions* (指明條文) means—

- (a) section 27B; and
- (b) section 12 of Schedule 4 to the Financial Institutions (Resolution) Ordinance (Cap. 628).”.

- (7) Section 27(4), after “purposes of”—

Add

“the definition of *specified amount* in”.

5. Sections 27A, 27B and 27C added

After section 27—

Add

“27A. Interpretation of sections 27A, 27B and 27C

- (1) This section applies in relation to the interpretation of this section and sections 27B and 27C.
- (2) In this section and sections 27B and 27C—

excluded transfer (不適用轉讓) means a transfer by way of a property transfer instrument within the meaning of section 2 of Schedule 4 to the Financial Institutions (Resolution) Ordinance (Cap. 628);

material date (關鍵日期), in relation to a qualifying arrangement, means the date on which—

- (a) the arrangement takes effect; and
- (b) the protected deposits maintained with one or more of the transferors in the arrangement are transferred, under the arrangement, to the resulting Scheme member in the arrangement;

qualifying arrangement (合資格安排)—see subsection (3);

resulting Scheme member (承轉方計劃成員)—see subsection (3);

transferor (轉讓方)—see subsection (3).

- (3) An arrangement (whether a merger, an acquisition or any other similar transaction) is a qualifying arrangement to which section 27B applies if—
 - (a) it involves the transfer (other than by way of an excluded transfer), on the date on which the arrangement takes effect, of protected deposits maintained with any of the parties to the arrangement that is a Scheme member (***transferor***) to another party to the arrangement (***resulting Scheme member***) to become protected deposits maintained with the resulting Scheme member; and
 - (b) the resulting Scheme member remains, or becomes, a Scheme member on that date.

- (4) For the purposes of this section and section 27B, a person maintains a protected deposit with a Scheme member if the deposit—
- (a) is held, in an account opened with the Scheme member, by the person in the person's own right;
 - (b) is held, in an account opened with the Scheme member, by a depositor as a bare trustee for the person;
 - (c) is held, in an account opened with the Scheme member, by a depositor in a client account for the person as the depositor's client; or
 - (d) is held, in an account opened with the Scheme member, by the person as a trustee under one trust.

27B. Time-limited enhanced protection limit following qualifying arrangement of Scheme members

- (1) This section applies if—
- (a) a qualifying arrangement takes effect and the material date of the arrangement falls on or after 1 January 2025;
 - (b) a person maintained protected deposits with 2 or more Scheme members involved in the qualifying arrangement immediately before the material date (*affected person*);
 - (c) the protected deposits maintained with the transferor (*original deposits*) are transferred, under the qualifying arrangement, to the resulting Scheme member on the material date; and

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- (d) during the enhanced protection period for the affected person, the resulting Scheme member becomes a failed Scheme member.
- (2) For determining the entitlement of the affected person to compensation under section 27(1) or (2) (as the case requires) in respect of the protected deposits the person maintains with the resulting Scheme member, that section applies to the person with the modification that the reference to “\$800,000” is to be construed as a reference to “the enhanced protection limit”.
- (3) For the purposes of subsection (1)(d), the enhanced protection period, in relation to the affected person, is the period beginning on the material date of the qualifying arrangement and ending on—
- (a) subject to paragraphs (b) and (c)—the expiry of 6 months beginning on the material date (*6 months period*);
 - (b) if the original deposits contain a deposit with the original maturity date falling after the 6 months period—that maturity date; or
 - (c) if the original deposits contain 2 or more deposits with the original maturity dates falling after the 6 months period—the latest maturity date.
- (4) For the purposes of subsection (2), the enhanced protection limit as at the quantification date, in relation to the affected person—
- (a) subject to paragraph (b), is the aggregate of—
 - (i) \$800,000; and

- (ii) an additional amount for every transferor with which the person maintained any protected deposits immediately before the material date of the qualifying arrangement that is equivalent to—
 - (A) if the total amount of such deposits plus the interest accrued on that amount calculated up to and including the material date are less than \$800,000—the sum of that total amount and the interest; or
 - (B) if the total amount of such deposits plus the interest accrued on that amount calculated up to and including the material date are not less than \$800,000—\$800,000, regardless of the number or amount of deposits the person maintained with the resulting Scheme member during the enhanced protection period; or
- (b) if subsection (3)(b) or (c) applies and the quantification date falls after the 6 months period, is the aggregate of—
 - (i) \$800,000; and
 - (ii) an additional amount for every transferor with which the person maintained any protected deposits immediately before the material date of the qualifying arrangement that is equivalent to—
 - (A) if the total amount of such deposits with the original maturity dates falling after the 6 months period

(which have not yet matured on the quantification date) plus the interest accrued on that amount calculated up to and including the material date are less than \$800,000—the sum of that total amount and the interest; or

- (B) if the total amount of such deposits with the original maturity dates falling after the 6 months period (which have not yet matured on the quantification date) plus the interest accrued on that amount calculated up to and including the material date are not less than \$800,000—\$800,000,

regardless of the number or amount of deposits the person maintained with the resulting Scheme member during the enhanced protection period.

27C. Notice to depositors about enhanced protection

- (1) A Scheme member involved in a qualifying arrangement (whether as a resulting Scheme member or one of the transferors) must, on or before the material date, send to every depositor of the Scheme member affected by the qualifying arrangement a written notice of the qualifying arrangement in the manner, together with the information, specified by the Board.
- (2) The Scheme member must, on or before the material date, inform the Board of the qualifying arrangement in writing and provide the Board with a copy of the notice referred to in subsection (1).

- (3) If a Scheme member, without reasonable excuse, fails to comply with subsection (2), every director and every chief executive of the Scheme member commits an offence and is liable—
- (a) on conviction on indictment to a fine of \$400,000 and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.”.

6. Section 35 amended (maximum amount of compensation payable to a depositor)

At the end of section 35(b)—

Add

“Note—

In section 35(b), the amount of compensation under section 27(1) or (2) is subject to the specified provisions as defined by section 27(3) (if those provisions apply).”.

7. Section 38 amended (subrogation)

Section 38(6)(a)—

Repeal

“\$500,000”

Substitute

“\$800,000”.

8. Section 50 amended (defences)

Section 50, after “15(6),”—

Add

“27C(3),”.

9. Section 50A added

After section 50—

Add

“50A. Reasonable excuse

- (1) This section applies if a provision of this Ordinance that creates an offence makes a reference to a reasonable excuse for a contravention to which the provision relates.
- (2) The reference to a reasonable excuse is to be construed as providing for a defence to a charge in respect of the contravention to which the provision relates.
- (3) A defendant is to be taken to have established that the defendant had a reasonable excuse for the contravention if—
 - (a) sufficient evidence is adduced to raise an issue that the defendant had such a reasonable excuse; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.

10. Section 58 added

After section 57—

Add

“58. Transitional provisions in relation to Deposit Protection Scheme (Amendment) Ordinance 2024

- (1) In this section—

amending Ordinance (《修訂條例》) means the Deposit Protection Scheme (Amendment) Ordinance 2024 (19 of 2024);

commencement date (生效日期) means the date on which section 4(2) and (4) of the amending Ordinance comes into operation;

pre-amended Ordinance (《原有條例》) means this Ordinance as in force immediately before the commencement date;

specified event (指明事件) means a specified event within the meaning of section 22(1).

- (2) The amendments made to this Ordinance by the amending Ordinance do not apply if a specified event has occurred before 1 October 2024, in which case the limit on the total amount of compensation to which a person may be entitled is the limit prescribed in section 27 (that is, \$500,000) before it is amended by section 4(2) and (4) of the amending Ordinance even though the payment of compensation is made after the commencement date.
- (3) The definition of **amount of relevant deposits** in section 1(1) of Schedule 4 to the pre-amended Ordinance continues to apply for calculating the amount of contribution payable by a new Scheme member under section 6(1) of Schedule 4 for the year of 2024.”.

11. Schedule 4 amended (contributions to Fund)

- (1) Schedule 4—

Repeal

“& 57]”

Substitute

“, 57 & 58]”.

- (2) Schedule 4, section 1(1), definition of *amount of relevant deposits*, paragraphs (a), (b), (c) and (d)—

Repeal

“\$500,000”

Substitute

“\$800,000”.

- (3) Schedule 4, section 3—

Repeal subsection (9)

Substitute

“(9) In this section—

specified amendment (指明的修訂) means—

- (a) an amendment to the definition of *specified percentage* in section 2(3); or
- (b) an amendment to increase the dollar amount specified in section 27(1) or (2) of this Ordinance.”.

12. “表述” substituted for “申述”

The following provisions, Chinese text—

- (a) section 49(1);
- (b) section 51(1)(db);
- (c) section 56(3)—

Repeal

“申述” (wherever appearing)

Substitute

“表述”.

Part 3

Amendments to Deposit Protection Scheme (Representation on Scheme Membership and Protection of Financial Products under Scheme) Rules (Cap. 581 sub. leg. A)

13. Section 2 amended (interpretation)

- (1) Section 2(1), definition of *Membership Sign*, before “the Schedule”—

Add

“Part 1 of”.

- (2) Section 2(1), English text, definition of *relevant place of business*—

Repeal

“that business.”

Substitute

“that business;”.

- (3) Section 2(1), Chinese text, definition of 銀行業務—

Repeal

“義。”

Substitute

“義；”.

- (4) Section 2(1)—

Add in alphabetical order

“*simplified Membership Sign* (簡化成員標誌) means the sign set out in Part 2 of the Schedule.”.

14. Section 3 amended (display of Membership Sign)

(1) Section 3, heading, after “**Sign**”—

Add

“: **relevant place of business**”.

(2) Section 3(1)—

Repeal

everything before “make”

Substitute

“(1) A Scheme member that carries on banking business in Hong Kong at any relevant place of business must”.

(3) Section 3(1)—

Repeal

“and colours”

Substitute

“, design and colours”.

(4) Section 3(1), after “specified in”—

Add

“Part 1 of”.

(5) Section 3—

Repeal subsections (2) and (3).

15. Section 3A added

After section 3—

Add

“3A. Display of simplified Membership Sign: electronic banking platform

- (1) A Scheme member that carries on banking business in Hong Kong and maintains one or more electronic banking platforms must make known to the public that it is a member of the Scheme by displaying, at each of the platforms, a simplified Membership Sign—
 - (a) in compliance with subsection (4); and
 - (b) in such a manner that the simplified Membership Sign is reasonably visible to any person accessing the platform.
- (2) Subsection (1) does not apply to a Scheme member (*specified member*) if—
 - (a) it is an authorized institution incorporated outside Hong Kong (as defined by section 2(1) of the Banking Ordinance (Cap. 155));
 - (b) the home page of its electronic banking platform contains any information about the banking business of another person who is not a Scheme member; and
 - (c) its electronic banking platform does not contain any information to the effect that—
 - (i) the specified member is a member of the Scheme; or
 - (ii) a deposit to be maintained with the specified member, or any other financial product offered by the specified member, is a protected deposit or a deposit qualified for protection by the Scheme.

- (3) For the purposes of subsection (2)(c), a display of a simplified Membership Sign by a specified member on an electronic banking platform, regardless of whether it is displayed under subsection (1) or otherwise, is not to be regarded by itself as information to the effect specified in subsection (2)(c)(i) and (ii).
- (4) A simplified Membership Sign displayed by a Scheme member on an electronic banking platform, under subsection (1) or otherwise, must be—
 - (a) in the design and colours specified in Part 2 of the Schedule;
 - (b) embedded with a hyperlink to the home page of the website of the Board or to the materials containing any information about the Scheme as specified by the Board; and
 - (c) if the platform contains any information about the banking business of another person who is not a Scheme member—displayed in such a manner that any person accessing the platform should reasonably be aware that the Scheme member, but not that other person, is a member of the Scheme.
- (5) In this section—

electronic banking platform (電子銀行平台), in relation to a Scheme member, means any information system that provides information about the Scheme member's banking business in Hong Kong through the Internet or other similar electronic or telecommunications network, whether it is web-based, application-based or otherwise.”.

16. Section 4 amended (membership representations in advertisements)

(1) Section 4, Chinese text, heading—

Repeal

“廣告內的成員申述”

Substitute

“在廣告中表述成員身分”.

(2) After section 4(1)—

Add

“(1A) For the purposes of subsection (1)(b), a display of a Membership Sign or simplified Membership Sign by a Scheme member, regardless of whether it is displayed on an electronic banking platform as defined by section 3A(5) or otherwise, is not to be regarded by itself as information to the effect specified in subsection (1)(b)(i) and (ii).”.

(3) Section 4(2)(b)—

Repeal

“HK\$500,000”

Substitute

“HK\$800,000”.

17. Section 6A amended (disclosure as to financial products offered on or after 1 January 2011)

Section 6A(3), after “6C”—

Add

“, 6CA”.

18. Section 6CA added

After section 6C—

Add

“6CA. Disclosure not required if person who invests in financial products is private banking customer

- (1) A Scheme member is not required to notify a person under section 6A(3) in respect of a financial product referred to in that section before the person invests in the financial product if—
 - (a) the person is an individual who is a customer in the private banking business of the Scheme member;
 - (b) the person has maintained an account with the Scheme member in the course of the private banking business and the person is to invest in the financial product under that account;
 - (c) the person has previously made another investment in the financial product under that account on or after 1 October 2024, and the Scheme member has notified the person under section 6A(3), before the person makes that other investment, that the financial product is not a protected deposit and is not protected by the Scheme;
 - (d) the person has acknowledged in accordance with section 6A(4)(b) or (5)(b) that the person has received and understands the notice referred to in paragraph (c); and
 - (e) the Scheme member gives a notice to the person, at least once a year, in writing or by telephone or electronic mail transmission or

through the Internet, notifying the person that the financial product is not a protected deposit and is not protected by the Scheme.

(2) In this section—

private banking (私人銀行業務), in relation to a Scheme member, means the provision by the Scheme member of banking or other financial services (as defined by the specified provision) to individuals who are considered by the Scheme member to be of high net worth, but does not include such services so provided as part of the Scheme member's retail banking (as defined by the specified provision);

specified provision (指明條文) means section 1 of the Fourteenth Schedule to the Banking Ordinance (Cap. 155).”.

19. Section 8 amended (offences)

Section 8—

Repeal

“or (2)”

Substitute

“, 3A(1)”.

20. Schedule amended (Membership Sign)

(1) The Schedule, English text, heading—

Repeal

“Membership Sign”

Substitute

“Membership Signs”.

(2) The Schedule—

Repeal

“2 & 3]”

Substitute

“2, 3 & 3A]”.


- (3) The Schedule, after the heading—
Add

“Part 1

Membership Sign under Section 3”.

- (4) The Schedule—


Repeal

“  [計劃成員名稱]是存款保障計劃的成員。本銀行接受的合資格存款受存保計劃保障，最高保障額為每名存款人HK\$500,000。

[Name of the Scheme member] is a member of the Deposit Protection Scheme. Eligible deposits taken by this Bank are protected by the Scheme up to a limit of HK\$500,000 per depositor.

”

Substitute

“  [計劃成員名稱]是存款保障計劃的成員。本銀行接受的合資格存款受存保計劃保障，最高保障額為每名存款人HK\$800,000。

[Name of the Scheme member] is a member of the Deposit Protection Scheme. Eligible deposits taken by this Bank are protected by the Scheme up to a limit of HK\$800,000 per depositor.

”.

- (5) The Schedule, after Part 1—
Add

“Part 2

Simplified Membership Sign under Section 3A



21. “表述” substituted for “申述”

- (1) The title, Chinese text—
Repeal

“申述”

Substitute

“表述”.

- (2) Section 6E, Chinese text, heading—

Repeal

“申述”

Substitute

“表述”.

- (3) Section 6E(1) and (2), Chinese text—

Repeal

“申述”

Substitute

“表述”.

Part 4

Related Amendments to Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32)

22. Section 2 amended (interpretation)

After section 2(12)—

Add

“(13) A note located in the text of this Ordinance is provided for information only and has no legislative effect.”.

23. Section 265 amended (preferential payments)

(1) At the end of section 265(1)(db)—

Add

“Note—

In section 265(1)(db)(i), (ii), (iii) and (iv), the amount of compensation under section 27(1) or section 27(2) of the Deposit Protection Scheme Ordinance (Cap. 581) is subject to the specified provisions as defined by section 27(3) of that Ordinance (if those provisions apply).”.

(2) Section 265(5D)(b)—

Repeal

“28(2)(b)”

Substitute

“21(2)(b)”.

(3) At the end of section 265(5J)—

Add

“Note—

In section 265(5J), the amount of compensation under section 27(1) of the Deposit Protection Scheme Ordinance (Cap. 581) is subject to the specified provisions as defined by section 27(3) of that Ordinance (if those provisions apply).”

24. Section 265A amended (interpretation of Subdivision 2)

Section 265A—

Repeal subsection (5).