L.N. 169 of 2023

Banking (Exposure Limits) (Amendment) Rules 2023

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Banking (Exposure Limits) (Amendment) Rules 2023

(Made by the Monetary Authority under section 81A of the Banking Ordinance (Cap. 155) after consultation with 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)

Part 1

Preliminary

1. Commencement

(1) Subject to subrules (2) and (3), these Rules come into operation on 1 April 2024.

(2) Part 3 comes into operation on the day on which Part 3 of the Banking (Capital) (Amendment) Rules 2023 comes into operation.

(3) Part 4 comes into operation on the day on which Part 5 of the Banking (Capital) (Amendment) Rules 2023 comes into operation.

2. Banking (Exposure Limits) Rules amended

The Banking (Exposure Limits) Rules (Cap. 155 sub. leg. S) are amended as set out in Parts 2, 3 and 4.

Part 2

Amendments Commencing on 1 April 2024

3. Rule 39 amended (interpretation of Part 7 and Schedule 1)

(1) Rule 39(1)—

(a) definition of ***initial public offering***;

(b) English text, definition of ***IPO***—

Repeal the definitions.

(2) Rule 39(2)—

Add in alphabetical order

"***IPO***;".

4. Rule 48 amended (exposure disregarded)

(1) Rule 48(1)(l)(i), Chinese text—

Repeal

"首次公開招股"

Substitute

" 某項 IPO".

(2) After rule 48(1)(l)—

Add

"(la) subject to rule 48A, an exposure of the institution under the following circumstances—

(i) the institution acts as a designated bank in an IPO; and

(ii) the exposure is incurred to another authorized institution for placing the subscription monies in respect of the IPO received by the designated

bank to the interbank market, including by means of a swap contract in relation to foreign exchanges;".

(3) Rule 48(4)—

Repeal the definition of *receiving bank*

Substitute

"***receiving bank*** (收款銀行), in relation to an IPO conducted in Hong Kong, means an authorized institution appointed by the issuer of the IPO to—

(a) receive subscription monies; and

(b) provide other services relating to the IPO such as returning subscription monies if the IPO is cancelled after money settlement.".

(4) Rule 48(4)—

Add in alphabetical order

"***designated bank*** (指定銀行), in relation to an IPO conducted in Hong Kong, means an authorized institution that effects the money settlement obligation of a subscriber of the IPO (or an agent of such a subscriber) with a receiving bank of the IPO;".

5. Rule 48A added

Part 7, Division 3, Subdivision 1, after rule 48—

Add

"**48A. Provisions supplementary to rule 48(1)(la)**

(1) The Monetary Authority may announce, in accordance with subrule (2), a day on which rule 48(1)(la) ceases to apply.

(2) An announcement under subrule (1) must be made by the Monetary Authority by—

(a) giving written notice to all authorized institutions; and

(b) posting a notice on the Monetary Authority's website.".

6. Rule 93A added

After rule 93—

Add

"**93A. Calculation of ASCP exposure of connected party**

For determining an ASCP exposure of an authorized institution to a connected party in accordance with rule 46, the institution must disregard rule 48(1)(a).".

Part 3

Amendments Commencing with Part 3 of Banking (Capital) (Amendment) Rules 2023

7. Rule 2 amended (interpretation)

(1) Rule 2(1), English text, definition of ***provide***, paragraph (c)—

Repeal

"incur."

Substitute

"incur;".

(2) Rule 2(1)—

Add in alphabetical order

"***consolidated basis*** (綜合基礎) has the meaning given by rule 6(5);

solo-consolidated basis (單獨—綜合基礎) has the meaning given by rule 6(5);

specified SFT (指明SFT) has the meaning given by section 68C(5) of the Capital Rules;

unconsolidated basis (非綜合基礎) has the meaning given by rule 6(5).".

(3) Rule 2(2), Chinese text—

Repeal

"***CET1 資本*** (CET1 capital)。"

Substitute

"***CET1 資本*** (CET1 capital)；".

(4) Rule 2(2)—

Add in alphabetical order

"***securities financing transaction*** (證券融資交易);

SFT;".

8. Rule 6 amended (Monetary Authority may require applying these Rules on unconsolidated or consolidated basis)

(1) Before rule 6(1)—

Add

"(1AA) An authorized institution must comply with the requirements of any provision of these Rules applicable to it on an unconsolidated basis, unless otherwise required in a notice given to it under subrule (1).".

(2) Rule 6(1)—

Repeal

"For applying"

Substitute

"Subject to subrule (1A), for applying".

(3) After rule 6(1)—

Add

"(1A) For applying any provision of these Rules to an authorized institution incorporated in Hong Kong that has any subsidiary on an unconsolidated basis, the Monetary Authority may, in a notice under subrule (1), require the institution to apply the provision on a solo-consolidated basis instead of a solo basis in respect of those of its subsidiaries specified in the notice.".

(4) Rule 6(2)—

Repeal

"subrule (1)"

Substitute

"subrules (1AA), (1) and (1A)".

(5) Rule 6(2)—

Repeal paragraph (a)

Substitute

"(a) applying a provision on a solo basis means applying the provision on the basis that the business of the institution includes—

(i) if the institution is incorporated in Hong Kong—all of its business in Hong Kong (being the business of its principal place of business in Hong Kong and its local branches (if any)) and the business of its branches (if any) outside Hong Kong; and

(ii) if the institution is incorporated outside Hong Kong—all of its business in Hong Kong (being the business of its principal place of business in Hong Kong and its local branches (if any), as if the business were collectively the business of a separate authorized institution);".

(6) After rule 6(2)(a)—

Add

"(ab) applying a provision on a solo-consolidated basis means applying the provision on the basis that the business of the institution includes those mentioned in paragraph (a)(i) and the business of its subsidiaries

as may be specified in the notice given to the institution; and".

(7) Rule 6(2)(b)—

Repeal

"paragraph (a), and"

Substitute

"paragraph (a)(i) and".

(8) After rule 6(3)—

Add

"(3A) While a notice given to an authorized institution under subrule (1) to apply a provision on a solo-consolidated basis, a consolidated basis or both bases (***rule 6 notice***) remains in effect, the institution must give written notice to the Monetary Authority of any of the following matters as soon as practicable after the institution is aware of the matter or ought to be aware of the matter—

(a) a subsidiary specified in the rule 6 notice ceasing to be a subsidiary of the institution;

(b) an entity becoming a subsidiary of the institution;

(c) the principal activities of a subsidiary referred to in paragraph (b);

(d) any significant change to the principal activities of the institution or any of its subsidiaries (including a subsidiary specified in the rule 6 notice and a subsidiary referred to in paragraph (b)).".

(9) After rule 6(4)—

Add

"(5) In this rule—

consolidated basis (綜合基礎), in relation to the application of any provision of these Rules, means the basis set out in subrule (2)(b) on which an authorized institution applies the provision;

solo basis (單獨基礎), in relation to the application of any provision of these Rules, means the basis set out in subrule (2)(a) on which an authorized institution applies the provision;

solo-consolidated basis (單獨—綜合基礎), in relation to the application of any provision of these Rules, means the basis set out in subrule (2)(ab) on which an authorized institution applies the provision;

unconsolidated basis (非綜合基礎) means—

(a) subject to paragraph (b), solo basis or solo-consolidated basis as specified in a notice given to an authorized institution under subrule (1); or

(b) for an authorized institution that does not fall within subrule (1)—solo basis.".

9. Rule 7 amended (notifiable event—prescribed notification requirement under section 81C of Ordinance)

(1) Rule 7, heading—

Repeal

"**event—prescribed notification requirement under section 81C of Ordinance**"

Substitute

"**events**".

(2) Rule 7(1)—

Repeal paragraph (a)

Substitute

"(a) notify the Monetary Authority of the event as soon as practicable after the institution is aware of the event or ought to be aware of the event; and".

(3) Rule 7(2), definition of ***notifiable event***, paragraph (k)—

Repeal subparagraph (i).

10. Rule 9 substituted

Rule 9—

Repeal the rule

Substitute

"**9. Interpretation: *equity exposure***

(1) For this Part, an equity exposure of an authorized institution is—

(a) subject to subrule (2), an exposure of the institution (whether in its banking book or trading book) that falls within section 54A of the Capital Rules; or

(b) an exposure that arises from the institution's holding in the equity components of a CIS that is engaged in the business of investing in equity or the acquisition and disposal of equity interests, if the holding is not consolidated for determining the institution's capital base in accordance with Part 3 of the Capital Rules.

(2) For subrule (1)(a), section 54A(1)(c) and (d) of the Capital Rules are taken to read as—

"(c) (if classification of the exposure is for the purpose of applying any provision of Part 2 of the Banking (Exposure Limits) Rules (Cap. 155 sub. leg. S) on a solo-consolidated basis as specified in a notice given to the institution under rule 6(1) of those Rules that remains in effect) the issuer is the subject of consolidation specified in that notice; or

(d) (if classification of the exposure is for the purpose of applying any provision of Part 2 of the Banking (Exposure Limits) Rules (Cap. 155 sub. leg. S) on a consolidated basis as specified in a notice given to the institution under rule 6(1) of those Rules that remains in effect) the issuer is the subject of consolidation specified in that notice.".".

11. Rule 14 amended (equity exposure disregarded)

(1) Rule 14(1)(d)—

Repeal

"that falls within the description under rule 9(2)(i)".

(2) Rule 14(1)—

Repeal paragraph (f)

Substitute

"(f) an equity exposure arising from the holding of any capital interest if the exposure is deducted in determining the capital base of the institution in accordance with Part 3 of the Capital Rules but, if only part of the exposure is so deducted, only that part is not to be taken into account;".

12. Rule 19 substituted

Rule 19—

Repeal the rule

Substitute

"**19. Equity exposure arising from specified SFTs**

In valuing an authorized institution's equity exposure arising from a specified SFT, the institution must—

(a) treat the equity interest arising from the securities sold or lent, or the securities provided as collateral, under the specified SFT as an on-balance sheet exposure of the institution as if the institution had never entered into the specified SFT; and

(b) value the exposure in accordance with the applicable provision in Division 4.".

13. Rule 26 substituted

Rule 26—

Repeal the rule

Substitute

"**26. Application of Part 4**

This Part applies to all authorized institutions.".

14. Rule 30 substituted

Rule 30—

Repeal the rule

Substitute

"**30. Application of Part 5**

This Part applies to all authorized institutions.".

15. Rule 39 amended (interpretation of Part 7 and Schedule 1)

(1) Rule 39(1), definition of ***exempted sovereign entity***, paragraphs (b) and (c)—

Repeal

"country"

Substitute

"jurisdiction".

(2) Rule 39(1)—

Repeal the definition of *recognized collateral*

Substitute

"***recognized collateral*** (認可抵押品)—

(a) in relation to an authorized institution that uses the BSC approach to calculate its credit risk for non-securitization exposures under the Capital Rules—means a collateral that meets the requirements of section 77(1)(a) of the Capital Rules; and

(b) in relation to an authorized institution that uses the STC approach, or a combination of the STC approach and IRB approach, to calculate its credit risk for non-securitization exposures under the Capital Rules—

(i) if the institution uses the simple approach in its treatment of recognized collateral in accordance with section 78 of the Capital Rules—means a collateral that meets the requirements of section 77(1)(a) of the Capital Rules; or

(ii) if the institution uses the comprehensive approach in its treatment of recognized collateral in accordance with section 78 of the Capital Rules—means a collateral that meets the requirements of section 77(1)(b) of the Capital Rules;".

(3) Rule 39(1), definition of ***recognized credit derivative contract***—

Repeal

"section 99"

Substitute

"sections 99 and 99B".

(4) Rule 39(1)—

(a) definition of ***forward asset purchase***;

(b) definition of ***original maturity period***;

(c) definition of ***residential mortgage loan***;

(d) definition of ***Table A***—

Repeal the definitions.

(5) Rule 39(2)—

Repeal

"***asset sale with recourse*** (有追索權的資產出售);".

(6) Rule 39(2)—

Repeal

"***country*** (國家);".

(7) Rule 39(2)—

Repeal

"***direct credit substitute*** (直接信貸替代項目);".

(8) Rule 39(2)—

Repeal

"***forward forward deposits placed*** (遠期有期存款);".

(9) Rule 39(2)—

Repeal

"***note issuance and revolving underwriting facilities*** (票據發行及循環式包銷融通);".

(10) Rule 39(2)—

Repeal

"***partly paid-up shares and securities*** (部分付款股份及證券);".

(11) Rule 39(2)—

Repeal

"***securities financing transaction*** (證券融資交易);".

(12) Rule 39(2)—

Repeal

"***trade-related contingency*** (貿易關聯或有項目);

transaction-related contingency (交易關聯或有項目);".

(13) Rule 39(2)—

Add in alphabetical order

"***CCF***;

delivery-versus-payment basis (貨銀對付形式);

internal model (內部模式);

non-securitization exposure (非證券化類別風險承擔);

positive current exposure (現行風險承擔正數);

risk-weighted amount for credit risk (信用風險的風險加權數額);

SA-CCR approach (SA-CCR計算法);

unsegregated collateral (無隔離抵押品);".

16. Rule 48 amended (exposure disregarded)

(1) Rule 48(1)—

Repeal paragraphs (e) and (f).

(2) Rule 48(1)(l), before "an exposure"—

Add

"subject to rule 48A,".

(3) Rule 48(1)(l)(ii), after "monies"—

Add

"in respect of the IPO".

(4) After rule 48(1)(m)—

Add

"(ma) an exposure that falls within item 10 in the Table in section 1 of Schedule 6 to the Capital Rules (exempt commitments);".

17. Rule 48A amended (provisions supplementary to rule 48(1)(la))

(1) Rule 48A, heading—

Repeal

"**rule 48(1)(la)**"

Substitute

"**rule 48(1)(l) and (la)**".

(2) Rule 48A(1)—

Repeal

"rule 48(1)(la)"

Substitute

"rule 48(1)(l) or (la), or both,".

18. Rule 48B added

Part 7, Division 3, Subdivision 2, before rule 49—

Add

"**48B. Credit risk mitigation—general**

(1) Subject to subrules (2), (3) and (4), an authorized institution must reduce the value of an exposure of the institution by taking into account the effect of a recognized CRM in the calculation of the institution's ASC exposure to a counterparty in accordance with applicable requirement set out in this Subdivision and Division 6 if the institution has taken into account the effect of the same form of recognized credit risk mitigation (as defined by section 2(1) of the Capital Rules) in its calculation of the risk-weighted amount for credit risk in respect of the exposure under the Capital Rules.

(2) In the case of a CCR exposure in respect of derivative contracts valued in accordance with rule 59 or a CCR exposure in respect of SFTs valued in accordance with rule 60, an authorized institution must not, for subrule (1), take into account the effect of any recognized CRM applicable to the exposure that has already been taken into account in the calculation of the amount of the default risk exposure of the contract or transaction under Part 6A of the Capital Rules.

(3) In the case of a CCR exposure in respect of SFTs valued in accordance with rule 60, an authorized institution that uses the STC approach, or a combination of the STC approach and IRB approach, to calculate its credit risk for non-securitization exposures under the Capital Rules must, for subrule (1), take into account the recognized collateral by using the comprehensive approach to the treatment of recognized collateral.

(4) An authorized institution must not recognize the effect of a recognized CRM if the institution has not taken into account the effect of the same form of recognized credit risk mitigation (as defined by section 2(1) of the Capital Rules) in its calculation of the risk-weighted amount for credit risk in respect of the exposure under the Capital Rules.".

19. Rules 50 and 51 substituted

Rules 50 and 51—

Repeal the rules

Substitute

"**50. Credit risk mitigation—Category A institution**

A Category A institution must adjust the value of a CRM covered exposure of the institution to the value of the CRM uncovered portion of the exposure in accordance with Division 6.

51. Credit risk mitigation—Category B institution

A Category B institution must adjust the value of each of the following exposures of the institution to the value of the CRM uncovered portion of the exposure in accordance with Division 6—

(a) a CRM covered exposure that is a CCR exposure;

(b) a CRM covered exposure that is a non-CCR exposure, if the recognized CRM that covers the exposure is—

(i) a recognized netting done under a valid bilateral netting agreement; or

(ii) a recognized collateral that is a cash deposit.".

20. Rule 54 amended (credit protection provider)

(1) Rule 54(2)—

Repeal

"The institution"

Substitute

"Subject to subrule (3), the institution".

(2) After rule 54(2)—

Add

"(3) If the recognized credit derivative contract is an internal risk transfer recognized under section 99B of the Capital Rules, a protection provider under the external hedge referred to in that section is to be regarded as the relevant credit protection provider.

(4) In this rule—

internal risk transfer (內部風險轉移) has the meaning given by section 99B(4) of the Capital Rules.".

21. Rules 59 and 60 substituted

Rules 59 and 60—

Repeal the rules

Substitute

"**59. Derivative contract**

A CCR exposure arising from a derivative contract entered into by an authorized institution with a counterparty is valued at the amount of the default risk exposure calculated—

(a) if the institution does not use any internal model based approach to calculate the amount of the default risk exposure of its derivative contracts for calculating its capital adequacy ratio under the Capital Rules—by using the approach or method under Part 6A of those Rules that the institution currently uses for that calculation; or

(b) if the institution uses any internal model based approach to calculate the amount of the default risk exposure of its derivative contracts for calculating its capital adequacy ratio under the Capital Rules—by using the SA-CCR approach.

60. SFT

A CCR exposure arising from an SFT entered into by an authorized institution with a counterparty is valued at the amount of the default risk exposure calculated by using the methods set out in Division 2B of Part 6A of the Capital Rules (other than the internal model based approach set out in section 226ML of those Rules).".

22. Rule 65 substituted

Rule 65—

Repeal the rule

Substitute

"**65. Off-balance sheet exposure other than default risk exposure or exposure arising from unsegregated collateral**

(1) Subject to subrule (2), a non-CCR exposure that is an off-balance sheet exposure specified in column 2 of the Table in section 1 of Schedule 6 to the Capital Rules must be valued at the credit equivalent amount of the exposure calculated in accordance with—

(a) if an authorized institution uses the BSC approach to calculate its credit risk for non-securitization exposures—section 118(1) of the Capital Rules; or

(b) if an authorized institution uses the STC approach, or a combination of the STC approach and IRB approach, to calculate its credit risk for non-securitization exposures—section 71(1) of the Capital Rules.

(2) For calculating the credit equivalent amount of an off-balance sheet exposure under subrule (1)—

(a) the applicable CCF specified in column 3 of the Table in section 1 of Schedule 6 to the Capital Rules is subject to a floor of 10%; and

(b) item 4 in the Table in section 1 of Schedule 6 to the Capital Rules (forward asset purchases) does not include a put option contract written by the institution.".

23. Rule 67 substituted

Rule 67—

Repeal the rule

Substitute

"**67. Assets underlying SFTs**

(1) This rule applies to the valuation of a non-CCR exposure arising from the assets underlying a specified SFT.

(2) For a specified SFT, an authorized institution must—

(a) treat the securities sold or lent, or the securities provided as collateral, under the specified SFT as an on-balance sheet exposure of the institution as if the institution had never entered into the specified SFT; and

(b) value the exposure in accordance with the applicable provision in Division 5.".

24. Rule 67A added

After rule 67—

Add

"**67A. Outstanding transaction in securities, foreign exchange or commodities**

(1) If any transaction in securities, foreign exchange or commodities (other than a repo-style transaction) that is entered into by an authorized institution on a delivery-versus-payment basis is outstanding on or after the 5th business day after the settlement date of that transaction, the institution must recognize an exposure to the counterparty to the transaction at the positive current exposure incurred by the institution under the transaction.

(2) If any transaction in securities, foreign exchange or commodities (other than a repo-style transaction) that is entered into by an authorized institution on a basis other than a delivery-versus-payment basis is outstanding after the settlement date of that transaction, the institution must recognize an exposure to the counterparty to the transaction as the sum of—

(a) the amount of payment made, or the current market value of the thing delivered, by the institution under the transaction; and

(b) any positive current exposure incurred by the institution under the transaction.".

25. Rule 70 amended (covered bond)

(1) Rule 70(3)(a)—

Repeal subparagraph (ii)

Substitute

"(ii) a claim that, if it had been incurred by the institution, would constitute a regulatory real estate exposure that would fall within section 65B of the Capital Rules, where—

(A) the exposure would qualify for a risk-weight of 35% or lower under that section; and

(B) the exposure in aggregate has a loan-to-value ratio of 80% or lower;

(iii) a claim that, if it had been incurred by the institution, would constitute a regulatory real estate exposure that would fall within section 65C of the Capital Rules, where—

(A) the exposure would qualify for a risk-weight of 100% or lower under that section; and

(B) the exposure in aggregate has a loan-to-value ratio of 60% or lower;".

(2) Rule 70(4)—

Repeal

"residential mortgage loan mentioned in subrule (3)(a)(ii)"

Substitute

"regulatory real estate exposure mentioned in subrule (3)(a)(ii) or (iii)".

(3) Rule 70(5)—

Repeal the definition of *covered bond*

Substitute

"***covered bond*** (資產覆蓋債券) has the meaning given by section 2(1) of the Capital Rules, with the modification that the reference to the calculation of the risk-weighted amount for credit risk is treated as

a reference to the calculation of the value of an exposure;".

(4) Rule 70(5)—

Repeal the definition of *loan-to-value ratio*

Substitute

"***loan-to-value ratio*** (貸款與價值比率) means the amount of the exposure divided by the value of the residential or non-residential property securing the exposure;".

(5) Rule 70(5)—

Add in alphabetical order

"***regulatory real estate exposure*** (監管地產風險承擔) has the same meaning as in section 65(1) of the Capital Rules.".

26. Rule 71A added

Part 7, Division 5, Subdivision 3, after rule 71—

Add

"**71A. Off-balance sheet exposure—unsegregated collateral**

(1) This rule applies to the valuation of an off-balance sheet exposure of an authorized institution to a counterparty arising from unsegregated collateral posted by the institution to the counterparty for a transaction or contract booked in the institution's banking book or trading book.

(2) The exposure must be valued—

(a) if the institution uses the BSC approach to calculate its credit risk for non-securitization exposures—at the credit equivalent amount

calculated in accordance with the relevant provisions for unsegregated collateral set out in Division 4 of Part 5 of the Capital Rules; or

(b) if the institution uses the STC approach, or a combination of the STC approach and IRB approach, to calculate its credit risk for non-securitization exposures—at the credit equivalent amount calculated in accordance with the relevant provisions for unsegregated collateral set out in Division 4 of Part 4 of the Capital Rules.".

27. Rule 80 amended (recognized collateral)

(1) Rule 80—

Repeal subrule (2)

Substitute

"(2) If the institution uses the BSC approach to calculate its credit risk for non-securitization exposures, the CRM uncovered portion of the exposure is valued as follows—

(a) for an exposure that is not an off-balance sheet exposure to which rule 65 applies—by using Formula 7;

(b) for an exposure that is an off-balance sheet exposure to which rule 65 applies—by using Formula 7, with the modification that "current market value of recognized collateral" in that Formula is multiplied by the CCF applicable to that off-balance sheet exposure as determined under rule 65.".

(2) Rule 80(4)—

Repeal

", under section 5(1)(a) of the Capital Rules, the STC approach to calculate the"

Substitute

"the STC approach, or a combination of the STC approach and IRB approach, to calculate its".

(3) Rule 80(4)(a)—

Repeal

"for an exposure with respect to which the simple approach is used, under Division 6 of Part 4 of the Capital Rules,"

Substitute

"subject to rule 48B(3), for an exposure with respect to which the simple approach is used".

(4) Rule 80(4)(b)—

Repeal

", under Division 7 of Part 4 of the Capital Rules,".

(5) Rule 80(4)(b)(i)—

Repeal

"not arising from an item specified in Table A"

Substitute

"that does not fall within subparagraph (ii)".

(6) Rule 80(4)(b)(ii)—

Repeal

"exposure arising from an item specified in Table A—the net credit exposure in Formula 3 under section 88"

Substitute

"off-balance sheet exposure (other than a default risk exposure in respect of derivative contracts)—the net credit exposure in Formula 3 under section 88(1) of the Capital Rules as adjusted (where applicable) under section 88(2)".

(7) Rule 80(4)(b)(ii)—

Repeal sub-subparagraph (A)

Substitute

"(A) the modification that the CCF as determined under that Formula is subject to a floor of 10%;".

(8) Rule 80—

Repeal subrule (5).

28. Rule 81 amended (recognized guarantee or recognized credit derivative contract)

After rule 81(4)—

Add

"(5) To avoid doubt, for a recognized credit derivative contract to which any of the following sections of the Capital Rules is applicable, the value of G in Formula 8 is capped at the maximum amount of the contract that may be recognized under that section—

(a) section 99(3);

(b) section 99(4);

(c) section 99B(3)(a);

(d) section 99B(3)(b).".

29. Rule 83 repealed (overlap of coverage of recognized CRM)

Rule 83—

Repeal the rule.

30. Rule 85 amended (meaning of *connected party*)

(1) Rule 85(2)(b)—

Repeal

"a non-local bank"

Substitute

"an entity".

(2) Rule 85—

Repeal subrule (3)

Substitute

"(3) The Monetary Authority may, in relation to an authorized institution, approve an entity for subrule (2)(b) if the Monetary Authority considers that—

(a) the entity falls within paragraph (b) of the definition of ***bank*** in section 2(1) of the Capital Rules; and

(b) it is reasonable to do so, having regard to any other factors that the Monetary Authority considers relevant.".

(3) Rule 85(4)—

Repeal the definition of *non-local bank*.

31. Rule 93 amended (CRM covered exposure)

(1) Rule 93(2)—

Repeal

"to a connected party, arising from an item in a Category B institution's banking book,"

Substitute

"of a Category B institution to a connected party".

(2) Rule 93(3)—

Repeal paragraph (b)

Substitute

"(b) the criteria specified in section 77(2) of the Capital Rules are met,".

(3) Rule 93(3)—

Repeal

"as a recognized collateral for valuing the exposure and this subrule takes effect as if section 77 of the Capital Rules were applicable to the institution (and to avoid doubt, including the case where that section is actually applicable to the institution)"

Substitute

"as if it were a recognized collateral for valuing the exposure in this Part, the value of which is determined in accordance with subrule (4)".

(4) After rule 93(3)—

Add

"(4) If the recognized collateral of a CRM covered exposure of an authorized institution is in the form of an interest in land that meets all the requirements of subrule (3), the CRM uncovered portion of the exposure is valued by using Formula 9.

(5) Formula 9 is as follows—

Formula 9

Value of CRM uncovered portion = max [0, (original exposure – current market value of interest in land)]

where—

original exposure = subject to rule 93A, the value of the exposure as calculated according to Part 7.

(6) In this rule—

CRM uncovered portion (CRM不涵蓋部分) has the meaning given by rule 39(1).".

32. Rule 100 amended (share capital disregarded—deemed rule 14(1)(e) or (f) approval)

(1) Rule 100, heading—

Repeal

"**or (f)**".

(2) Rule 100—

Repeal subrule (2).

33. Rule 115 repealed (longer period—deemed rule 48(1)(e)(i)(B) or (f)(i)(B) approval)

Rule 115—

Repeal the rule.

34. Rule 121 repealed (non-local bank—deemed rule 85(3) approval)

Rule 121—

Repeal the rule.

35. Rule 121A added

Before rule 122—

Add

"**121A. Non-local bank—former rule 85(3) approval**

(1) Subject to subrules (2) and (3), a former rule 85(3) approval is deemed to be an approval given under new rule 85(3) on the commencement date.

(2) During the transitional period, if the Monetary Authority does not have sufficient available information to form a reasonable view as to whether an entity that is the subject of a former rule 85(3) approval will meet the requirements of new rule 85(3), the Monetary Authority may, by written notice given to the authorized institution to which the approval relates, require the institution to seek the Monetary Authority's approval in respect of the entity under new rule 85(3).

(3) If subrule (2) applies in respect of an entity, the deemed approval under subrule (1) is revoked on the later of—

(a) if the institution seeks approval under new rule 85(3) during the transitional period, the day on which the Monetary Authority determines whether or not to give the approval; and

(b) the expiry of the transitional period.

(4) In this rule—

amending Rules (《修訂規則》) means the Banking (Exposure Limits) (Amendment) Rules 2023;

commencement date (生效日期) means the date on which Part 3 of the amending Rules comes into operation;

former rule 85(3) (前第85(3)條) means rule 85(3) as in force immediately before the commencement date;

former rule 85(3) approval (前第85(3)條批准) means an approval under former rule 85(3) that was in effect immediately before the commencement date;

new rule 85(3) (新訂第85(3)條) means rule 85(3) as amended by the amending Rules;

transitional period (過渡期) means the period beginning on the commencement date and ending on the date that is 3 months after the commencement date.".

36. Schedule 1 amended (tables for calculation)

(1) Schedule 1, English text, heading—

Repeal

"**Tables**"

Substitute

"**Table**".

(2) Schedule 1—

Repeal Table A.

Part 4

Amendments Commencing with Part 5 of Banking (Capital) (Amendment) Rules 2023

37. Rule 39 amended (interpretation of Part 7 and Schedule 1)

(1) Rule 39(1)—

Add in alphabetical order

"***gross jump-to-default risk amount*** (突發違責風險總額) has the meaning given by section 281 of the Capital Rules;".

(2) Rule 39(2), Chinese text—

Repeal

"***STC計算法*** (STC approach)。"

Substitute

"***STC計算法*** (STC approach)；".

(3) Rule 39(2)—

Add in alphabetical order

"***IMA***;

loss given default (違責損失率);

STM approach (STM 計算法);".

38. Rule 68 amended (option contract)

Rule 68—

Repeal subrule (2)

Substitute

"(2) The exposure is valued at the gross jump-to-default risk amount in accordance with rule 71C.".

39. Part 7, Division 5, Subdivision 3A added

Part 7, Division 5, after Subdivision 3—

Add

"Subdivision 3A—Non-CCR Exposure (Trading Book): Authorized Institution that Uses STM Approach or IMA for Market Risk

71B. Application of Subdivision 3A

This Subdivision applies to a non-CCR exposure arising from an item in the trading book (***relevant exposure***) of an authorized institution that uses the STM approach, IMA, or a combination of the STM approach and IMA, to calculate its regulatory capital for market risk, unless Subdivision 3 contains a provision that specifically provides for the valuation of the exposure.

71C. Gross jump-to-default risk amount

(1) Subject to the modifications set out in subrule (2), an authorized institution must calculate the gross jump-to-default risk amount in respect of a relevant exposure of the institution to a counterparty in accordance with section 281U of the Capital Rules as if the institution were calculating the SA-DRC (non-securitization) under the STM approach.

(2) The modifications referred to in subrule (1) are—

(a) a loss given default of 100% must be assigned to the relevant exposure; and

(b) any adjustment in relation to the maturity of an exposure under section 281U of the Capital Rules does not apply.

(3) In this rule—

relevant exposure (有關風險承擔)—see rule 71B;

SA-DRC (non-securitization) (SA-DRC(非證券化)) has the meaning given by section 281 of the Capital Rules.".

40. Part 7, Division 5, Subdivision 4 heading amended (non-CCR exposure (trading book))

Part 7, Division 5, Subdivision 4, heading, after "**(Trading Book)**"—

Add

"**: Authorized Institution that does not Fall within Subdivision 3A**".

41. Rule 72 amended (application of Subdivision 4)

Rule 72—

Repeal

"an authorized institution's trading book"

Substitute

"the trading book of an authorized institution that does not fall within Subdivision 3A".

Eddie YUE
Monetary Authority

18 December 2023

Explanatory Note

These Rules amend the Banking (Exposure Limits) Rules (Cap. 155 sub. leg. S) (***principal Rules***).

2. The principal Rules draw extensively on the measurement methodologies under the Banking (Capital) Rules (Cap. 155 sub. leg. L). The main purpose of these Rules is to incorporate consequential amendments arising from the amendments introduced by the Banking (Capital) (Amendment) Rules 2023 (***BCAR 2023***) for implementing the revised capital standards contained in the Basel III final reform package (see rules 15 to 29 and 36 to 41 of these Rules).

3. Taking this opportunity, these Rules also introduce some refinements that are considered as significant for maintaining the stability of the Hong Kong banking sector or ensuring the effective operation of the principal Rules (mainly set out in rules 3 to 14 of these Rules).

4. These Rules come into operation on—

(a) in respect of the provisions set out in Part 2 of these Rules, 1 April 2024;

(b) in respect of the provisions set out in Part 3 of these Rules, the day on which Part 3 of the BCAR 2023 comes into operation; and

(c) in respect of the provisions set out in Part 4 of these Rules, the day on which Part 5 of the BCAR 2023 comes into operation.