

Code of Conduct for Members of the Hong Kong Deposit Protection Board and its Committees

Introduction

1. This Code is endorsed by the Hong Kong Deposit Protection Board (Board). The Code applies to all Members of the Board and its Committees appointed under section 7 of Schedule 2 to the Deposit Protection Scheme Ordinance.

Use of Confidential Information

2. Members shall observe the provisions in section 46 of the Deposit Protection Scheme Ordinance regarding preservation of confidentiality (see **Appendix 1**).
3. Members shall not use confidential information given to them in connection with their membership of the Board or its Committees for the purpose of carrying out financial transactions, whether directly or indirectly, and whether on their own private account or on the account of any person, company or other organisation with which they have a connection, for personal gain or the gain of others.
4. In making comments in public (whether orally or in writing) on the work of the Board and its Committees, Members shall
 - a) avoid disclosing or commenting on confidential information, including the contents of papers connected with meetings and the substance of discussions at meetings;
 - b) make it clear, as appropriate, whether they are conveying the general views of the Board or its Committees or their own personal views;
 - c) avoid making comments that might undermine or bring into question the reputation of the Board or its Committees or of any of the Members.

Conflict of Interests

5. Members shall observe the provisions in section 8 of Schedule 2 to the Deposit Protection Scheme Ordinance concerning conflict of interests (see **Appendix 2**).
6. In addition, Members of the Board and its Committees shall follow the guidelines and principles set by the Independent Commission Against Corruption in the two-tier reporting system for declaring interests. These guidelines and principles are reproduced below:

I. Register of Members' Interests

- a) Members shall register in writing their personal interests, direct or indirect, pecuniary or otherwise, when they first join the Board or its Committee, and annually thereafter, to the Secretary of the Board. The registration shall be made on the standard form at **Appendix 3**.
- b) The types of interests required for registration shall include
 - i) proprietorships, partnerships or directorships of companies, public or private;
 - ii) remunerated employment, offices, trades, professions or vocations;
 - iii) shareholdings in companies, public or private; and
 - iv) other declarable interests, taking into consideration the nature of work of the Board or its Committees (including non-remunerated appointment to public councils, boards or committees, etc.).
- c) A register of Members' interests shall be kept by the Secretary of the Board which should be made available for inspection on request by any member of the public.

II. Declaration of Interests at Meetings

- a) If a Member has any direct personal or pecuniary interest in any matter under consideration by the Board or its Committee, he must, as soon as practicable after he has become aware of it, disclose to the Board or its Committee prior to the discussion of the item. (The potential conflict of interests situations are described in **Appendix 4**).

- b) The Chairman of the Board or its Committee shall decide whether a member disclosing an interest may speak or vote on the matter, may remain in the meeting as an observer, or should withdraw from the meeting.
- c) If the Chairman of the Board or its Committee declares an interest in a matter under consideration, the Chairman shall refrain from taking part in the discussion or vote on the matter.
- d) When a known direct pecuniary interest exists, the Secretary may withhold circulation of relevant papers to the Member concerned. Where a Member is in receipt of a paper for discussion which he knows presents a direct conflict of interest, he should immediately inform the Secretary and return the paper.
- e) All cases of declaration of interests shall be recorded in the minutes of the meeting.

DEPOSIT PROTECTION SCHEME ORDINANCE
(Chapter 581)

Section 46 Confidentiality

(1) Except so far as it is necessary for the performance of any function under this Ordinance or for carrying into effect the provisions of this Ordinance, a specified person—

- (a) shall not suffer or permit any person to have access to any matter relating to the affairs of any person that comes to the specified person's knowledge in the performance of any function under this Ordinance; and
- (b) shall not communicate any such matter to any person other than the person to whom such matter relates.

(2) Subsection (1) does not apply—

- (a) to the disclosure of information in summary form that is so framed as to prevent particulars relating to the business of any particular Scheme member from being ascertained from it;
- (b) to the disclosure of information with a view to the institution of, or otherwise for the purpose of, any criminal proceedings, whether under this Ordinance or otherwise;
- (c) in connection with any other legal proceedings arising out of this Ordinance;
- (d) to the disclosure of information to the police or the Independent Commission Against Corruption, at the request of the Secretary for Justice, relevant to the proper investigation of any criminal complaint;
- (e) to the disclosure of information with a view to the institution of, or otherwise for the purpose of, any disciplinary proceedings relating to the discharge of his professional duties by an auditor, or a former auditor, of a Scheme member or former Scheme member, whether or not the auditor or former auditor, as the case may be, was appointed for the purposes of section 48(3) or (4);
- (f) to the disclosure of information to the Chief Executive, the Financial Secretary, the Monetary Authority, the Securities and Futures Commission, an investor compensation company recognized by the Commission under section 79 of the Securities and Futures Ordinance (Cap 571) or any public officer authorized by the Financial Secretary where the disclosure will, in the opinion of the Board, enable or assist the recipient of the information to perform his functions;

- (g) to the disclosure of information to an auditor, or a former auditor, of a Scheme member or former Scheme member for the purpose of enabling or assisting the Board to perform its functions under this Ordinance;
 - (h) to the disclosure of information with the consent of—
 - (i) the person from whom the information was obtained or received; and
 - (ii) where the information does not relate to such person, the person to whom it relates;
 - (i) to the disclosure of information which has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purpose for which, disclosure is not precluded by this section; or
 - (j) to the disclosure of information required by law.
- (3) The Board may attach a condition to any disclosure of information made pursuant to subsection (2)(b), (c), (d), (e), (f) or (j), and shall attach a condition to any disclosure of information made pursuant to subsection (2)(g), that neither—
- (a) the person to whom the information has been disclosed; nor
 - (b) any person obtaining or receiving the information (whether directly or indirectly) from the person referred to in paragraph (a),
- shall disclose that information to any other person without the consent of the Board.
- (4) No person shall, without the written consent of the Monetary Authority given generally or in any particular case or class of cases, disclose to any other person—
- (a) any information regarding a Scheme member's MA supervisory rating or the amount of a Scheme member's contribution; or
 - (b) any other information that would, by itself or together with other information, enable a Scheme member's MA supervisory rating or the amount of a Scheme member's contribution to be ascertained or inferred.
- (5) Any specified person who contravenes subsection (1) commits an offence and is liable—
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (6) If a person, knowing that the condition referred to in subsection (3) has been attached to a disclosure of information made pursuant to subsection (2), contravenes that condition, the person commits an offence and is liable—
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

(7) If a person contravenes subsection (4), the person or, where the person is a Scheme member, every director and every chief executive of the person, commits an offence and is liable—

- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

(8) In this section, “specified person” means—

- (a) any person who—
 - (i) is or has been—
 - (A) a member of the Board;
 - (B) a related person of the Board; or
 - (C) a person employed by or assisting a related person of the Board;and
 - (ii) performs or has performed any function under this Ordinance; or
- (b) the Monetary Authority, or a person appointed under section 5A(3) of the Exchange Fund Ordinance (Cap 66) to assist the Monetary Authority.

DEPOSIT PROTECTION SCHEME ORDINANCE
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SCHEDULE 2

8. Conflict of interests

(1) A member of the Board who is in any way directly or indirectly interested in a contract made or proposed to be made by the Board, shall disclose the nature of his interest at a meeting of the Board. The disclosure shall be recorded in the minutes of the Board, and the member may not without the permission of the Chairman of the Board take any part in any deliberation of the Board with respect to that contract and may not in any event vote on any question concerning it.

(2) For the purposes of subsection (1), a general notice given at a meeting of the Board by a member of the Board to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract that may, after the date of the notice, be made with the company or firm is regarded as a sufficient disclosure of his interest in relation to any contract so made or proposed to be so made.

(3) A member of the Board need not attend in person at a meeting of the Board in order to make a disclosure which he is required to make under subsection (1) above if he takes reasonable steps to secure that the disclosure is made by a notice which is brought up and read at the meeting.

Hong Kong Deposit Protection Board

Register of Interests

(Name _____) requests that interests as listed below should be included in the Register of Members' Interests.

A. Proprietorships, partnerships or directorships of companies, public or private

B. Remunerated employment, offices, trades, professions or vocations

C. Shareholdings in companies, public or private

D. Other declarable interests, taking into consideration the nature of work of the Board or its Committees (including non-remunerated appointment to public councils, boards or committees, etc.)

Signed: _____

Date : _____

Note: Please continue on a separate sheet if necessary.

Appendix 4

Potential Conflict of Interests Situations

When a Member of the Board or its Committees has a potential conflict of interests in a matter placed before the Board or the Committee, he should make full disclosure of his interest. The basic principle to be observed is that Members' advice should be disinterested and impartial and it is the responsibility of each Member to judge and decide if the situation warrants a declaration, and to seek a ruling from the Chairman in case of doubt.

It is impossible to define or describe all the situations that would call for such a declaration, because each individual case differs, and because of the difficulty of catering for unusual and unforeseen circumstances. On the other hand, it is not intended that a Member should make a declaration of interest simply because the Board or the Committee is considering a matter in which he has knowledge or experience. The following may assist Members to identify potential conflict of interests:

- Pecuniary interests in a matter under consideration by the Board or the Committee, held either by the Member or by any close relative of his, should be declared. Members are themselves the best judge to who, in the particular circumstances, is a "close relative".
- A directorship, partnership, advisory or client relationship, employment or other significant connection with a company, firm, club, association, union or other organisation which is connected with, or the subject of, a matter under consideration by the Board or the Committee should be declared.
- Similarly, some friendships might be so close as to warrant declaration in order to avoid situations where an objective observer might believe a Member's advice to have been influenced by the closeness of the association.
- A Member who, as a barrister, solicitor, accountant or other professional adviser, has personally or as a member of a company, advised or represented or had frequent dealings with any person or body connected with a matter under consideration by the Board or the Committee should make a declaration.
- Any interest likely to lead an objective observer to believe that the Member's advice might have been motivated by personal interest rather than a duty to give impartial advice should be declared.