

**L.N. 107 of 2006****DEPOSIT PROTECTION SCHEME ORDINANCE (AMENDMENT OF SCHEDULES 1 AND 4) NOTICE 2006**

(Made by the Chief Executive in Council under section 54 of the Deposit Protection Scheme Ordinance (Cap. 581))

**1. Commencement**

This Notice shall come into operation on the day appointed for the commencement of Schedule 4 to the Deposit Protection Scheme Ordinance (Cap. 581).

**2. Deposits specified for purposes of definitions of “protected deposit” and “relevant deposit” in section 2(1) of this Ordinance**

(1) Schedule 1 to the Deposit Protection Scheme Ordinance (Cap. 581) is amended, in section 1, by adding—

“(aa) a structured deposit;”.

(2) Schedule 1 is amended, in section 2, by adding—

“(aa) a structured deposit;”.

(3) Schedule 1 is amended by adding—

“2A. For the purposes of this Schedule, a deposit is a structured deposit if—

(a) the loan of money, or any part of the loan, may be repaid—

(i) in a currency that is different from that in which the loan of money was made; or

(ii) in the form of any property other than money;

(b) the interest on the loan of money, or the premium at which the loan of money is repayable, or any part of the interest or premium, may be paid in a currency that is different from that in which the loan of money was made;

(c) any amount of the loan of money to be repaid is determined by reference to—

(i) the price or value of a financial product, commodity, non-local currency or property;

(ii) the level of an index;

- (iii) the fact that a relevant figure—
    - (A) is above, below or equal to a specified level;
    - or
    - (B) is within or outside a specified range;
  - (iv) the difference calculated by subtracting a relevant figure from a specified percentage;
  - (v) the result of a mathematical operation that involves more than one relevant figure; or
  - (vi) the occurrence or non-occurrence of an event in relation to a person other than the depositor who holds, or the Scheme member that takes, the deposit; or
- (d) any amount of the interest on the loan of money, or of the premium at which the loan of money is repayable, is determined by reference to—
- (i) the price or value of a financial product, commodity, non-local currency or property;
  - (ii) the level of an index;
  - (iii) the fact that a relevant figure—
    - (A) is above, below or equal to a specified level;
    - or
    - (B) is within or outside a specified range;
  - (iv) the difference calculated by subtracting a relevant figure from a specified percentage;
  - (v) the result of a mathematical operation that involves more than one relevant figure; or
  - (vi) the occurrence or non-occurrence of an event in relation to a person other than the depositor who holds, or the Scheme member that takes, the deposit.”.

(4) Schedule 1 is amended, in section 3, in the definition of “excluded person”, in paragraph (e)(ii), by repealing “and to the definition of “relevant deposit” in that section”.

(5) Schedule 1 is amended, in section 3, in the definition of “non-excluded person”—

- (a) in paragraph (b), by repealing “and to the definition of “relevant deposit” in that section”;
- (b) by adding—
  - “(c) in relation to the definition of “relevant deposit” in section 2(1) of this Ordinance, a person who is not an excluded person within the meaning of paragraph (a), (b), (c) or (d) of the definition of “excluded person”;

(6) Schedule 1 is amended, in the English text, in section 3, in the definition of “related company”, in paragraph (c), by repealing the full stop and substituting a semicolon.

(7) Schedule 1 is amended, in section 3, by adding—

““commodity” (商品) means any item which is listed in the Schedule to the Commodity Exchanges (Prohibition) Ordinance (Cap. 82);

“financial product” (金融產品) means any securities, futures contract, collective investment scheme or leveraged foreign exchange contract within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);

“relevant figure” (有關數字) means—

(a) a rate of interest, quoted or published from time to time, that is offered by a person or government on a loan of money that—

(i) the person or government makes to, or proposes to make to, another person or government; or

(ii) the person or government raises from, or proposes to raise from, another person or government;

(b) a rate of interest, quoted or published from time to time, that is offered by a person or government, for entering into a swap contract with another person or government, as the rate of interest at which payments to be made under that contract are to be calculated;

(c) a rate of return, quoted or published from time to time, on an investment of moneys made by a person or government; or

(d) a figure, quoted or published from time to time, that represents the result of a mathematical operation that involves more than one rate of interest or return mentioned in paragraph (a), (b) or (c);

“swap contract” (掉期合約) means a contract made between two parties whereby each party agrees to make payments, calculated at a rate of interest on a specified amount of money, to the other party in a particular period.”.

### 3. Contributions to Fund

(1) Schedule 4 is amended, in section 1(1), by adding—

““specified date” (指明日期), in relation to a year, means—

(a) 20 October of that year; or

(b) where 20 October of that year is a general holiday, the day (not being a general holiday) immediately preceding that date;

“start-up year” (啟動年) means the year in which this Schedule commences;”.

(2) Schedule 4 is amended, in section 1(3)(b), by repealing “20 October” and substituting “the specified date”.

(3) Schedule 4 is amended, in section 2(1) and (2), by repealing “20 October” and substituting “the specified date”.

(4) Schedule 4 is amended, in section 3(2) and (3), by repealing “20 October” and substituting “the specified date”.

(5) Schedule 4 is amended, in section 3(5)—

(a) in the Chinese text, by repealing “在不抵觸第 (6) 及 (7) 款和第 6 條的規定下” and substituting “除第 (6) 及 (7) 款和第 6 條另有規定外”;

(b) by adding “(other than the start-up year)” after “any year”;

(c) by repealing “20 October” and substituting “the specified date”.

(6) Schedule 4 is amended, in section 3, by adding—

“(5A) Subject to section 6, the amount of build-up levy payable by a Scheme member for the start-up year is such portion of the amount of build-up levy that would have been payable by the Scheme member for the start-up year if that Scheme member had been a member of the Scheme during the whole of the year that the number of days during which this Schedule is in operation in the start-up year bears to 365.

(5B) That amount of build-up levy that would have been payable for the start-up year is the sum calculated by multiplying the amount of relevant deposits maintained with the Scheme member as at—

(a) if the Scheme member becomes a member of the Scheme on or before the specified date in the year immediately preceding the start-up year, that specified date; or

(b) if the Scheme member becomes a member of the Scheme after that specified date, the date on which it becomes a member of the Scheme,

by the percentage specified in column 2 of the Table set out in subsection (5) opposite the MA supervisory rating of the Scheme member specified in column 1 of that Table.”.

(7) Schedule 4 is amended, in section 3(6) and (7), by repealing “20 October” and substituting “the specified date”.

(8) Schedule 4 is amended, in section 4(3)—

(a) in the Chinese text, by repealing “在不抵觸第 6 條的規定下” and substituting “除第 6 條另有規定外”;

(b) by repealing “20 October” and substituting “the specified date”.

(9) Schedule 4 is amended, in section 5(1)(b) and (4)(b), by repealing “20 October” and substituting “the specified date”.

(10) Schedule 4 is amended, in the Chinese text, in section 5(3), by repealing “在不抵觸第 6 條的規定下” and substituting “除第 6 條另有規定外”.

(11) Schedule 4 is amended, in section 6, by adding immediately before subsection (1)—

“(1A) This section applies to a Scheme member that becomes a member of the Scheme by virtue of section 12(3) of this Ordinance on or after the commencement of this Schedule.”.

(12) Schedule 4 is amended, in section 6(1), by repealing “by virtue of section 12(3) of this Ordinance”.

(13) Schedule 4 is amended, in section 6(1)(a), by repealing “but not 20 October of the immediately preceding year”.

(14) Schedule 4 is amended, in section 6(2)—

(a) by repealing “by virtue of section 12(3) of this Ordinance after 20 October” and substituting “after the specified date”;

(b) by repealing “but not 20 October of that particular year”.

(15) Schedule 4 is amended, in section 6(3), by repealing “by virtue of section 12(3) of this Ordinance”.

(16) Schedule 4 is amended, in section 7, by repealing everything after “of \$50,000” and substituting—

“that—

(a) in the case of the start-up year—

(i) where the Scheme member becomes a member of the Scheme before the commencement of this Schedule, the number of days during which this Schedule is in operation in that year bears to 365;

(ii) where the Scheme member becomes a member of the Scheme on or after the commencement of this Schedule, the number of days during which the Scheme member is a member of the Scheme in that year bears to 365; or

(b) in the case of any other year, the number of days during which the Scheme member is a member of the Scheme in that year bears to 365,

is payable by the Scheme member for that year.”.

(17) Schedule 4 is amended, in section 8(1) and (3), by repealing “20 October” and substituting “the specified date”.

(18) Schedule 4 is amended, in section 9(2), by repealing everything after “days” and substituting “within the relevant period in the year bears to the number of days within the contribution period in that year.”.

(19) Schedule 4 is amended, in section 9, by adding—

“(3) In this section—

“contribution period” (供款期間)—

(a) in relation to the start-up year—

(i) in the case where the Scheme member becomes a member of the Scheme before the commencement of this Schedule, means the period during which this Schedule is in operation in that year; or

(ii) in the case where the Scheme member becomes a member of the Scheme on or after the commencement of this Schedule, means the period that begins on the date on which the Scheme member becomes a member of the Scheme and expires on 31 December of that year;

(b) in relation to any other year—

(i) in the case where the Scheme member is a member of the Scheme on 1 January of that year, means the period that begins on 1 January and expires on 31 December of that year; or

(ii) in the case where the Scheme member becomes a member of the Scheme after 1 January of that year, means the period that begins on the date on which the Scheme member becomes a member of the Scheme and expires on 31 December of that year;

“relevant period” (有關期間), in relation to a year, means the period that begins on the date on which a Scheme member ceases to be a member of the Scheme and expires on 31 December of that year.”.

LAM Chik-ting, Tony  
Clerk to the Executive Council

COUNCIL CHAMBER  
9 May 2006

### **Explanatory Note**

This Notice amends Schedules 1 and 4 to the Deposit Protection Scheme Ordinance (Cap. 581) to—

- (a) exclude a structured deposit from the definitions of “protected deposit” and “relevant deposit”;
- (b) amend the definition of “excluded person” to exclude an officer of a member of the Deposit Protection Scheme or its related company in so far as the definition of “relevant deposit” is concerned;
- (c) provide an alternative date for the purposes of Schedule 4 to the Ordinance where the date currently specified in the Schedule is a general holiday; and
- (d) introduce the build-up levy for the start-up year and make consequential amendments.