

June 2026

# HKMA CONSULTATION CONCLUSIONS ON PROPOSED ENHANCEMENTS TO THE BANKING ORDINANCE

## BACKGROUND

On 13 February 2026, the Hong Kong Monetary Authority (the “**HKMA**”) released its consultation conclusions on a series of proposed amendments to the Banking Ordinance (Cap. 155) (“**BO**”), Financial Institutions (Resolution) Ordinance (Cap. 628) (“**FIRO**”), the Hong Kong Association of Banks Ordinance (Cap. 364) and the Hong Kong Association of Banks By-laws (Cap. 364A). The proposals aim to modernise the regulatory framework, strengthen group-wide supervision, enhance the HKMA’s supervisory toolkit and better align Hong Kong’s regime with international standards.

We have set out below the feedback from key stakeholders, the HKMA’s responses and proposed next steps.

## RATIONALE FOR CONSULTATION

As stated in the HKMA’s consultation paper published on 5 December 2024:

*“While the Hong Kong banking system is robust, resilient and well regulated, it is important to review and assess the framework from time to time, so as to enable the Monetary Authority to effectively discharge his functions under the BO, especially in promoting the general stability and effective working of the banking system. This is particularly important in the face of rapid developments in the*

*banking sector and the evolving domestic and international regulatory and supervisory landscape.”*

Against this backdrop, and to better align itself with the Core Principles set out by the Basel Committee on Banking Supervision, the HKMA has identified six priority areas where it deemed amendments and enhancements to the BO to be “timely and necessary”. These include:

- (a) simplification of the three-tier banking system into two-tier;
- (b) allowing sharing of information among authorised institutions on customers, accounts and transactions for the purpose of preventing and detecting financial crime;
- (c) establishing a statutory regime for the MA to exercise direct regulatory and supervisory powers over designated locally incorporated holding companies of locally incorporated AIs;
- (d) extending the HKMA’s enforcement powers, to better enable it to deal with a range of potential misconduct and fitness and propriety issues in a more tailored and proportionate manner;
- (e) allowing flexibility for the HKMA to engage skilled persons on a case-by-case basis, where appropriate, to assist the MA in the



performance of his functions under the BO; and

- (f) introducing a number of technical amendments to address operational issues, streamline the regulatory and supervisory processes, reduce the compliance burden faced by AIs, continue the process of aligning Hong Kong's regulatory system with that of other major financial centres, and better reflect the policy intent.

This consultation (which addresses three of the six areas listed above, namely paragraphs (c), (e) and (f)) reinforces the HKMA's positioning as a forward-looking regulator capable of responding to wider international developments and local market needs.

## STATUTORY REGIME FOR REGULATION AND SUPERVISION OF BANK HOLDING COMPANIES

The HKMA proposes to establish a statutory framework for the direct regulation and supervision of locally incorporated holding companies of locally incorporated AIs, codifying and expanding the HKMA's current non-statutory group-wide supervision approach.

- + **Broad industry support:** whilst the industry generally expressed support, some respondents requested the HKMA to clarify the scope of application and interaction with overseas consolidated supervision.
- + **Scope:** the HKMA explained that only locally incorporated holding companies that are not already under direct or consolidated supervision by the HKMA or another financial authority may be designated as a "designated bank holding company" ("DBHC"). The regime is intended to apply primarily to unregulated holding companies with significant influence over an AI, ensuring they act as a source of support rather than risk.

Additionally, if a holding company is already subject to consolidated supervision by a competent authority (either local or overseas), it will generally not be designated as a DBHC.

- + **Prudential and supervisory requirements:** requirements such as capital adequacy and

recovery planning will be imposed on the DBHC itself, and not on other group companies, unless a consolidated requirement applies.

- + **Next steps:** the HKMA will update the current non-statutory guidelines in the HKMA's Supervisory Policy Manual ("SPM") module CS-1 "Group-wide Approach to Supervision of Locally Incorporated Authorised Institutions" to provide guidance on the new regime and intends to conduct further consultations with the industry on the draft. Given that the framework largely codifies existing guidelines, it expects minimal additional burden on AIs.

## ENGAGEMENT OF SKILLED PERSONS

The HKMA proposes to empower itself to appoint, or require AIs to appoint, skilled persons (including auditors and other professionals) to assist in supervisory matters, including investigations, reviews and reporting.

- + **General industry support:** the industry believed that the proposed arrangement would enable the HKMA to discharge duties more effectively and noted that other financial regulators in Hong Kong and other jurisdictions have already adopted similar practices.
- + **Costs of skilled persons:** the HKMA provided further details on cost-bearing arrangements and added that AIs may challenge the HKMA's decisions via the Review Tribunal in the event of a disagreement.
- + **Scope of skilled persons:** the HKMA did not consider it practical to establish and maintain a pre-determined list of skilled persons nor to restrict the scope of skilled persons. Instead, the scope is intentionally broad (including cybersecurity specialists and climate risk experts) and appointments would be considered on a case-by-case basis.
- + **Concern on statutory immunity:** the HKMA clarified that any skilled person appointed will be subject to appropriate terms and conditions set by the HKMA, and



the immunity under section 127 of the BO will not be extended to cover them.

- + **Next steps:** the HKMA will revise and expand SPM module IC-3 to cover the engagement of both auditors and skilled persons and will consult the industry further.

## TECHNICAL AMENDMENTS - BO

The HKMA proposes to introduce the following technical amendments to the BO with the aim of reducing operational issues and compliance burden:

- + **Sections 59(1) and 60(5) - Audit and Audited Balance Sheet:** an AI incorporated outside Hong Kong may comply with either section 59(1), which requires the AI to comply with the Companies Ordinance (Cap.622) with respect to the audit of a company's accounts, or section 60(5), which requires certain documents to be submitted in the manner specified in the provision. In the latter case, it will no longer be necessary for the AI to seek exemption from the HKMA under section 60(6).
- + **Section 67 - Duty to report inability to meet obligations:** to bring the provision further in line with the Basel Core Principles, a new provision is to be introduced requiring AIs to notify the HKMA of any "material adverse developments", which would include any development which has, or is likely to have, a material impact on an AI's financial soundness or viability or an AI's ability to continue to carry on its banking business or its business of taking deposits.
- + **Section 68 - Examination by authorities outside Hong Kong:** the HKMA intends to broaden the existing provision to allow a non-Hong Kong supervisory authority with functions broadly similar to the Securities and Futures Commission or the Insurance Authority, to conduct examinations of an AI's books, accounts and transactions etc.. Any such examination would continue to be subject to the HKMA's prior approval.

- + **Section 73 - Prohibition from acting as employees of authorised institutions:** The HKMA had initially proposed to impose a seven-year prohibition for persons declared bankrupt or convicted of fraud or dishonesty or involved in an AI's revocation, resolution or liquidation from acting as employees of another AI to enhance the practical operation of the provision. However, upon further consideration, this will no longer be adopted, and instead, sections 73(1)(c), 73(1A)(c), 73(1A)(ii) and 73(1D), which prohibit directors, chief executives and managers involved in an AI's revocation, resolution or liquidation from being an employee of another AI, will be repealed instead. This is because the HKMA believes it has adequate means to address cases involving directors, chief executives or managers whose misconduct contributed to such revocation, resolution or liquidation (which is contained in a separate proposal to modernise the MA's enforcement powers).

- + **Definitions:** the HKMA provided further clarifications and explanations on the following defined terms which they had proposed to amend:

"Indirect controller" to include (i) any person whose directions, instructions, or wishes the directors are accustomed or under an obligation to act in accordance with, whether formal or informal, or (ii) any person, not being a director of the company or a person employed in the management of the company, who is in a position to exercise significant influence over the management of the company -

- The HKMA acknowledged the industry's suggestion to provide certain explicit exclusions to "employed in the management of the company" and will also take into account analogous terms in other HK legislation when drafting the revised definition.

"Working day" - respondents queried how the amended definition would operate in practice -



- On further consideration, the HKMA will retain the definition of “working day” in the BO. Instead, the Banking (Liquidity) Rules will be amended such that the calculations of average liquidity maintenance ratio and average core funding ratio will be based on each day instead of each “working day”. This takes into account that the liquidity position of a category 2 institution does change on Saturdays, public holidays and gale warning days, due to, for instance, payments via the Faster Payment System.

“Money broker” – a respondent suggested specifying the relevant markets as “wholesale treasury markets” and amending the definition of “deposit” -

- The HKMA considered it would not be appropriate to amend the definition of “deposit” for the purpose of clarifying the remit of the “money broker” definition and restrictions under section 118A, as any change to the definition of “deposit” would affect the application of a wide range of other provisions in the BO. Noting that the current definition has operated in accordance with its intended purpose over the years, no amendment to the “money broker” definition will be made at this stage.

## ADDITIONAL AMENDMENTS - FIRO

The HKMA proposes to introduce an express reference to ‘public interest’ in the conditions for initiating resolution of a “within scope financial institution” under section 25 of the FIRO, having drawn reference from similar legislation in the EU, UK and Singapore.

- + **General industry support:** the industry agreed with the proposed change as it enhances the flexibility of the resolution authorities in handling various scenarios, and better aligns with the equivalent condition in other major financial jurisdictions.
- + **Inclusion of other conditions such as the interest of affected persons:** there were suggestions within the industry for other important conditions, such as the interests of affected persons (including depositors, policy owners and investors), to be included to ensure the comprehensiveness of the resolution framework. However, the HKMA considers the current framework under section 8 of the FIRO to be sufficient, as a resolution authority must already have regard to the interests of affected persons.



## CONCLUSION

With the conclusion of the HKMA's consultation on the proposed amendments to the BO, the HKMA now aims to introduce an amendment bill into the Legislative Council in 2026.

We are closely monitoring the legislative process and will keep clients updated on developments, including the consultation on revised SPM modules. If you have questions about the potential impact these proposals may have on your business, please feel free to reach out to us.

## CONTACT US



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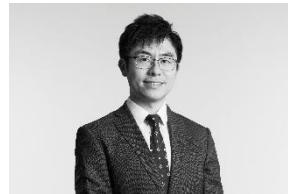
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