

公 共 啟 事
PUBLIC NOTICES

《道亨銀行有限公司 (合併) 條例草案》

**DAO HENG BANK LIMITED
(MERGER) BILL**

《道亨銀行有限公司 (合併) 條例草案》**目錄**

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本條例草案

旨在

就 DBS 廣安銀行有限公司及海外信託銀行有限公司的業務轉歸道亨銀行有限公司一事以及就其他有關事宜訂定條文。

弁言

鑑於——

- (a) Dao Heng Bank Limited (道亨銀行有限公司) (下稱“道亨銀行”) 是根據香港法律成立、註冊辦事處設於香港的公司；該公司是根據《銀行業條例》(第 155 章) 領有牌照的銀行，在香港及其他地方經營銀行業務；
- (b) DBS Kwong On Bank Limited DBS 廣安銀行有限公司 (下稱“DBS 廣安銀行”) 是根據香港法律成立、註冊辦事處設於香港的公司；該公司是根據《銀行業條例》(第 155 章) 領有牌照的銀行，在香港經營銀行業務；
- (c) Overseas Trust Bank, Limited (海外信託銀行有限公司) (下稱“海外信託銀行”) 是根據香港法律成立、註冊辦事處設於香港的公司；該公司是根據《銀行業條例》(第 155 章) 領有牌照的銀行，在香港經營銀行業務；
- (d) 道亨銀行、DBS 廣安銀行及海外信託銀行均為 DBS 集團成員；
- (e) 為更妥善經營 DBS 集團的業務，宜將道亨銀行、DBS 廣安銀行及海外信託銀行各自的業務合併，而該項合併應以將 DBS 廣安銀行及海外信託銀行的業務移轉予道亨銀行的方式進行；及

A BILL

To

Provide for the vesting in Dao Heng Bank Limited of the undertakings of DBS Kwong On Bank Limited and Overseas Trust Bank, Limited and for other related purposes.

Preamble

WHEREAS—

- (a) Dao Heng Bank Limited (道亨銀行有限公司) (hereinafter called “Dao Heng Bank”) is a company incorporated under the laws of Hong Kong having its registered office in Hong Kong and is a bank licensed under the Banking Ordinance (Cap. 155) carrying on the business of banking in Hong Kong and elsewhere;
- (b) DBS Kwong On Bank Limited DBS 廣安銀行有限公司 (hereinafter called “DBS Kwong On Bank”) is a company incorporated under the laws of Hong Kong having its registered office in Hong Kong and is a bank licensed under the Banking Ordinance (Cap. 155) carrying on the business of banking in Hong Kong;
- (c) Overseas Trust Bank, Limited (海外信託銀行有限公司) (hereinafter called “Overseas Trust Bank”) is a company incorporated under the laws of Hong Kong having its registered office in Hong Kong and is a bank licensed under the Banking Ordinance (Cap. 155) carrying on the business of banking in Hong Kong;
- (d) Dao Heng Bank, DBS Kwong On Bank and Overseas Trust Bank are members of the DBS Group;
- (e) for the better conduct of the businesses of the DBS Group, it is expedient that the respective undertakings of Dao Heng Bank, DBS Kwong On Bank and Overseas Trust Bank be merged and that such merger should occur by means of a transfer of the undertakings of DBS Kwong On Bank and Overseas Trust Bank to Dao Heng Bank; and

- (f) 考慮到合約關係及其他法律關係對 DBS 廣安銀行及海外信託銀行所經營的業務的影響程度，宜藉本條例將上述業務移轉予道亨銀行，使道亨銀行、DBS 廣安銀行及海外信託銀行各自業務的經營及其連續性不受干擾。

由立法會制定。

1. 簡稱

本條例可引稱為《道亨銀行有限公司(合併)條例》。

2. 釋義

(1) 在本條例中，除所述事項或文意另有所指外——

“公司註冊處處長”(Registrar of Companies)指根據《公司條例》(第 32 章)第 303 條委任的公司註冊處處長；

“各移轉銀行”(transferring banks)指 DBS 廣安銀行及海外信託銀行，而提述“移轉銀行”之處，即為提述各移轉銀行的其中之一；

“私隱專員”(Privacy Commissioner)指根據《個人資料(私隱)條例》(第 486 章)第 5(1)條設立的個人資料私隱專員；

“抵押權益”(security interest)包括按揭或押記(不論是法律上或衡平法上的按揭或押記，並包括轉押)、債權證、匯票、承付票、擔保、留置權、質押(不論是實有的或法律構定的)、押貨預支、作為抵押的轉讓、彌償、抵銷權、無效資產安排、協議或承諾(不論是否以書面形式作出)或其他用作保證付款或清償債項或解除法律責任(不論是現存的或是將來的、實有的或是或有的)的方式(全部根據適用的法律而訂立、批出、產生或存續)；

“法律責任”(liabilities)包括每一種類的責任及義務(不論是現存的或是將來的、實有的或是或有的)；

“附屬公司”(subsidiary)具有《公司條例》(第 32 章)第 2 條給予該詞的涵義；

- (f) in view of the extent of the contractual and other legal relationships affecting the conduct of the undertakings of DBS Kwong On Bank and Overseas Trust Bank, it is expedient that the said undertakings be transferred to Dao Heng Bank by this Ordinance without interference with the conduct and continuity of the respective businesses of Dao Heng Bank, DBS Kwong On Bank and Overseas Trust Bank.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Dao Heng Bank Limited (Merger) Ordinance.

2. Interpretation

- (1) In this Ordinance, unless the subject or context otherwise requires—
- “appointed day” (指定日期) means such day as may be appointed pursuant to section 3;
- “customer” (客戶) means any person having a banking account or other dealing, transaction or arrangement with a transferring bank;
- “Dao Heng Bank” (道亨銀行) means Dao Heng Bank Limited (道亨銀行有限公司);
- “data protection principles” (保障資料原則) means the data protection principles set out in Schedule 1 to the Personal Data (Privacy) Ordinance (Cap. 486);
- “DBS Group” (DBS 集團) means The Development Bank of Singapore Limited and its subsidiaries;
- “DBS Kwong On Bank” (DBS 廣安銀行) means DBS Kwong On Bank Limited DBS 廣安銀行有限公司;
- “excluded property” (除外財產) means—
- (a) the common seal of each of the transferring banks;
 - (b) documents required to be kept by the transferring banks pursuant to the Companies Ordinance (Cap. 32);
 - (c) the issued share capital of DBS Kwong On Bank represented by the paid-up shares beneficially owned by DBS Group Holdings (Hong Kong) Ltd.;
 - (d) the issued share capital of Overseas Trust Bank represented by the paid-up shares beneficially owned by Dao Heng Bank;
- “existing” (現有) means existing, outstanding or in force immediately before the appointed day;

“客戶”(customer)指任何在移轉銀行開有銀行帳戶，或與該移轉銀行有其他事務來往、交易或安排的人；

“指定日期”(appointed day)指依據第 3 條指定的日期；

“保障資料原則”(data protection principles)指《個人資料(私隱)條例》(第 486 章)附表 1 列明的保障資料原則；

“海外信託銀行”(Overseas Trust Bank)指 Overseas Trust Bank, Limited (海外信託銀行有限公司)；

“除外財產”(excluded property)指——

- (a) 各移轉銀行中每一銀行的法團印章；
- (b) 各移轉銀行依據《公司條例》(第 32 章)須保存的文件；
- (c) 由 DBS Group Holdings (Hong Kong) Ltd. 實益擁有並以繳足股款的股份表明的 DBS 廣安銀行已發行股本；
- (d) 由道亨銀行實益擁有並以繳足股款的股份表明的海外信託銀行已發行股本；

“財產”(property)指每一種類的財產及資產(不論位於何處)，以及每一種類的權利(不論是現存的或是將來的、實有的或是或有的)，並包括以信託方式或以受信人身分持有的財產以及每一種類的抵押權益、利益及權力，但不包括除外財產；

“現有”(existing)指緊接指定日期之前存在、未完結或有效者；

“道亨銀行”(Dao Heng Bank)指 Dao Heng Bank Limited (道亨銀行有限公司)；

“業務”(undertakings)指各移轉銀行任何性質的業務經營及所有現有財產、儲備金及法律責任，但除外財產則除外；

“遺囑”(will)包括遺囑更改附件及其他遺囑性質的文件；

“DBS 集團”(DBS Group)指 The Development Bank of Singapore Limited 及其附屬公司；

“DBS 廣安銀行”(DBS Kwong On Bank)指 DBS Kwong On Bank Limited DBS 廣安銀行有限公司。

(2) 在本條例中凡提述移轉銀行的財產或法律責任之處，即為提述該移轉銀行當其時(不論是以受益人或任何受信人的身分)有權享有的財產或負上的法律責任，不論該等財產或法律責任位於何處或在何處產生，以及該移轉銀行能否將其移轉或轉讓，亦不論該移轉銀行是根據香港法律抑或香港以外任何國家、地區或地方的法律而有權享有該等財產或負上該等法律責任。

(3) 任何政治體、法團及其他人的權利如受本條例任何條文影響，則該政治體、法團或其他人須當作於本條例中述及。

- “liabilities” (法律責任) includes duties and obligations of every description (whether present or future, actual or contingent);
- “Overseas Trust Bank” (海外信託銀行) means Overseas Trust Bank, Limited (海外信託銀行有限公司);
- “Privacy Commissioner” (私隱專員) means the Privacy Commissioner for Personal Data established under section 5(1) of the Personal Data (Privacy) Ordinance (Cap. 486);
- “property” (財產) means property and assets of every description wheresoever situate and rights of every description (whether present or future, actual or contingent), and includes property held on trust or in a fiduciary capacity and security interests, benefits and powers of every description but does not include the excluded property;
- “Registrar of Companies” (公司註冊處處長) means the Registrar of Companies appointed under section 303 of the Companies Ordinance (Cap. 32);
- “security interest” (抵押權益) includes a mortgage or charge (whether legal or equitable and including any sub-mortgage), debenture, bill of exchange, promissory note, guarantee, lien, pledge (whether actual or constructive), hypothecation, assignment by way of security, indemnity, right of set-off, flawed asset arrangement, agreement or undertaking (whether in writing or not) or other means (in each case made, granted, arising or subsisting under any applicable law) of securing payment or discharge of a debt or liability (whether present or future, actual or contingent);
- “subsidiary” (附屬公司) has the meaning assigned to it by section 2 of the Companies Ordinance (Cap. 32);
- “transferring banks” (各移轉銀行) means DBS Kwong On Bank and Overseas Trust Bank, and a reference to a “transferring bank” is a reference to one of the transferring banks;
- “undertakings” (業務) means the businesses and all existing property, reserves and liabilities of the transferring banks of whatsoever nature, other than the excluded property;
- “will” (遺囑) includes a codicil and any other testamentary writing.

(2) Any reference in this Ordinance to property or liabilities of a transferring bank is a reference to property or liabilities to which the transferring bank is for the time being entitled or subject (whether beneficially or in any fiduciary capacity), wherever such property or liabilities are situated or arise and whether or not capable of being transferred or assigned by the transferring bank, and whether the transferring bank is entitled to such property or subject to such liabilities under the laws of Hong Kong or under the laws of any country, territory or place outside Hong Kong.

(3) Any body politic or corporate and any other person or persons whose rights are affected by any of the provisions of this Ordinance shall be deemed to be mentioned herein.

3. 公告指定日期

(1) 道亨銀行的董事可就本條例而指定一個日期。

(2) 道亨銀行及各移轉銀行須於憲報刊登聯合公告，述明如此指定的日期。但如因任何原因該日期結果並非指定日期，則道亨銀行及各移轉銀行須於憲報刊登聯合公告表明此事，並須再次於憲報刊登聯合公告，述明另一個如此指定的日期或已過去的指定日期(視屬何情況而定)。

4. 更改名稱、減少資本及撤銷銀行牌照

(1) 在指定日期當日，憑藉本條例——

(a) DBS 廣安銀行及海外信託銀行的名稱須按照本條分別更改為“DBS Kwong On Limited (廣安有限公司)”及“Overseas Trust Limited (海外信託有限公司)”；

(b) DBS 廣安銀行的法定股本及已發行股本須減至 \$10，由 5 股每股 \$2 的普通股組成，而 374 999 995 股每股 \$2 的普通股則須註銷；

(c) 海外信託銀行的法定股本及已發行股本須減至 \$10，由 8 股每股 \$1.25 的普通股組成，而 1 999 999 992 股每股 \$1.25 的普通股則須註銷；及

(d) 各移轉銀行中每一銀行的銀行牌照須按照《銀行業條例》(第 155 章) 第 V 部，自金融管理專員指定的日期起撤銷，而該日期須在憲報刊登。

(2) DBS 廣安銀行須在指定日期不少於 7 日前，將本條例一份文本送交公司註冊處處長，同時附上由 DBS 廣安銀行一名董事或該銀行的秘書簽署確認第 (1) 款所述的股本減少及股票註銷事宜的會議紀錄一份。

(3) 海外信託銀行須在指定日期不少於 7 日前，將本條例一份文本送交公司註冊處處長，同時附上由海外信託銀行一名董事或該銀行的秘書簽署確認第 (1) 款所述的股本減少及股票註銷事宜的會議紀錄一份。

(4) 公司註冊處處長須依據本條例，將依據第 (2) 及 (3) 款送交予他的本條例文本及會議紀錄登記，並須在指定日期當日——

3. Notice of appointed day

(1) The directors of Dao Heng Bank may appoint a day for the purposes of this Ordinance.

(2) Dao Heng Bank and the transferring banks shall give joint notice in the Gazette stating the day so appointed save that, in the event that such day proves not to be the appointed day for any reason, Dao Heng Bank and the transferring banks shall give joint notice in the Gazette to that effect and shall again give joint notice in the Gazette stating the next day so appointed or, as the case may be, the day which was the appointed day.

4. Change of name, reduction of capital and revocation of banking licence

(1) On the appointed day, by virtue of this Ordinance—

- (a) the names of DBS Kwong On Bank and Overseas Trust Bank shall, in accordance with this section, be respectively changed to “DBS Kwong On Limited (廣安有限公司)” and “Overseas Trust Limited (海外信託有限公司)”;
- (b) the authorized and issued share capital of DBS Kwong On Bank shall be reduced to \$10 comprising 5 ordinary shares of \$2 each and 374 999 995 ordinary shares of \$2 each shall be cancelled;
- (c) the authorized and issued share capital of Overseas Trust Bank shall be reduced to \$10 comprising 8 ordinary shares of \$1.25 each and 1 999 999 992 ordinary shares of \$1.25 each shall be cancelled; and
- (d) the banking licence of each of the transferring banks shall, in accordance with Part V of the Banking Ordinance (Cap. 155), be revoked on and from a day to be appointed by the Monetary Authority which day shall be published in the Gazette.

(2) Not later than 7 days before the appointed day, DBS Kwong On Bank shall deliver to the Registrar of Companies a copy of this Ordinance together with a minute, signed by a director or the secretary of DBS Kwong On Bank confirming the reduction of share capital and cancellation of shares referred to in subsection (1).

(3) Not later than 7 days before the appointed day, Overseas Trust Bank shall deliver to the Registrar of Companies a copy of this Ordinance together with a minute, signed by a director or the secretary of Overseas Trust Bank confirming the reduction of share capital and cancellation of shares referred to in subsection (1).

(4) The Registrar of Companies shall, pursuant to this Ordinance, register the copies of the Ordinance and the minutes delivered to him pursuant to subsections (2) and (3) and on the appointed day shall—

- (a) 將各移轉銀行的新名稱記入登記冊內，以取代其舊名稱；
- (b) 向 DBS 廣安銀行發出關於更改名稱的公司註冊證書一份，證書上須述明 DBS 廣安銀行的新名稱；
- (c) 向海外信託銀行發出關於更改名稱的公司註冊證書一份，證書上須述明海外信託銀行的新名稱；及
- (d) 簽署證明本條例及有關會議紀錄已獲登記，而該證明書即為證實各移轉銀行中每一銀行減少其法定股本及已發行股本的不可推翻的證據。

5. 業務轉歸道亨銀行

(1) 在指定日期當日，有關業務憑藉本條例而無需其他作為或契據，移轉予及轉歸道亨銀行，以便道亨銀行繼承整項業務，猶如道亨銀行與有關的移轉銀行在各方面而言在法律上均是同一人一樣。

(2) 屬業務組成部分的財產及法律責任如位於香港以外的國家、地區或地方，而其移轉及轉歸是受香港法律以外的規定所管限，則倘若道亨銀行提出要求，有關的移轉銀行須在指定日期後，在切實可行範圍內，盡快採取各種必要行動，以確保該財產及法律責任有效地移轉予及轉歸道亨銀行，而在作出上述移轉及轉歸之前，有關的移轉銀行須以受託人身分絕對地代道亨銀行持有該財產及負有該法律責任。

6. 信託財產及遺囑

(1) 任何財產如在緊接指定日期之前由移轉銀行持有，不論是單獨持有或聯同其他人持有，亦不論是以信託契據、授產安排、契諾、協議、遺囑或其他文書的受託人或保管受託人身分(不論原先是否如此獲得委任，亦不論是經簽署或蓋章或藉任何法庭的命令或以其他方式委任)持有，或以死者的遺囑執行人或遺產管理人的身分、或藉法庭的命令委任的司法受託人身分、或其他受信人身分持有，並憑藉本條例轉歸或當作轉歸道亨銀行，則自指定日期起，該財產即由道亨銀行單獨持有或聯同上述其他人持有(視屬何情況而定)，而道亨銀行具有有關信託所給予該移轉銀行的同一身分，並擁有和受限於對該等信託適用的權力、條文及法律責任。

- (a) enter the new names of the transferring banks in the register in place of their former names;
- (b) issue to DBS Kwong On Bank a certificate of incorporation on change of name stating DBS Kwong On Bank's new name;
- (c) issue to Overseas Trust Bank a certificate of incorporation on change of name stating Overseas Trust Bank's new name; and
- (d) certify under his hand the registration of the Ordinance and the minutes which certificates shall be conclusive evidence of the reduction of the authorized and issued share capital of each of the transferring banks.

5. Vesting of the undertakings in Dao Heng Bank

(1) On the appointed day the undertakings shall, by virtue of this Ordinance and without further act or deed, be transferred to, and vest in, Dao Heng Bank to the intent that Dao Heng Bank shall succeed to the whole undertakings as if in all respects Dao Heng Bank were the same person in law as the relevant transferring bank.

(2) Where the transfer and vesting of any property and liabilities situate in any country, territory or place outside Hong Kong and forming part of the undertakings is governed otherwise than by the laws of Hong Kong, the transferring bank in question shall, if Dao Heng Bank so requires, so soon as is practicable after the appointed day, take all necessary steps for securing the effective transfer and vesting thereof in Dao Heng Bank and, pending such transfer and vesting, the transferring bank in question shall hold any such property and liabilities in trust absolutely for Dao Heng Bank.

6. Trust property and wills

(1) Any property vested or deemed to be vested in Dao Heng Bank by virtue of this Ordinance which immediately before the appointed day was held by a transferring bank, whether alone or jointly with any other person, as trustee or custodian trustee of any trust deed, settlement, covenant, agreement, will or other instrument (whether originally so appointed or not, and whether appointed under hand or seal, or by order of any court or otherwise), or as executor of the will, or administrator of the estate, of a deceased person or as judicial trustee appointed by order of any court, or in any other fiduciary capacity, shall, on and from the appointed day, be held by Dao Heng Bank alone or, as the case may be, jointly with such other person, in the same capacity upon the trusts, and with and subject to the powers, provisions and liabilities, applicable thereto respectively.

(2) 任何組成業務部分的財產經變為歸屬具有第(1)款所提述受信人身分的移轉銀行所根據或憑藉的現有文書或法庭命令(如屬遺囑，則包括遺囑認證的授予書)，以及訂明移轉銀行因以該受信人身分提供服務而獲付或留存酬金的上述文書或命令的條文，或任何現有合約或安排，自指定日期起，在文意許可的情況下，須在猶如其中提述該移轉銀行之處(但不包括對該移轉銀行的條款及條件或收費率的提述(不論如何措詞，亦不論是明訂或隱含))，以提述道亨銀行取代的情況下解釋和具有效力。但本款並不阻止道亨銀行按照有關文書或命令的條款而更改應予支付的酬金或收費率。

(3) 在指定日期前訂立但在指定日期前未在香港申領遺囑認證的組成業務部分的遺囑，以及在指定日期當日或之後訂立的組成業務部分的遺囑，如委任移轉銀行以受託人的身分作為財產的執行人、受託人或收受人，則自指定日期起，該遺囑須在猶如其中提述該移轉銀行為該執行人、受託人或收受人或其他與該委任有關之處(但不包括對該移轉銀行的條款及條件或收費率的提述(不論如何措詞，亦不論是明訂或隱含))，以提述道亨銀行取代的情況下解釋和具有效力。

(4) 任何遺囑性質的饋贈均不得僅因本條例任何條文的施行而廢止。

7. 補充條文

在不影響本條例其他條文的一般性原則下，除非本條例其他條文有相反效力，否則本條下述條文(關於除外財產則除外)具有效力——

- (a) 移轉銀行(不論單獨或聯同其他人，亦不論以主事人或代理人的身分或以書面或其他形式)訂立、參與訂定、接獲、發出或被指明為收件人的所有現有合約、協議、保險單、認購權文件、約務更替文件、證明書、裁決、批地文件、轉易書、契據、租契、特許、通知、許可證、擔保、授予抵押權益或包含抵押權益的文件、債權證明書、彌償、委託、指示及其他文書及承諾，自指定日期起，須在猶如屬以下情況下而解釋和具有效力——

(2) Any existing instrument or order of any court under or by virtue of which any property forming part of the undertakings became vested in a transferring bank, in any such fiduciary capacity as is referred to in subsection (1) (including in the case of a will any grant of probate thereof), and any provision in such instrument or order, or any existing contract or arrangement, for the payment to, or retention by, a transferring bank of remuneration for its services in any such fiduciary capacity, shall, on and from the appointed day, be construed and have effect, so far as the context permits, as if for any reference therein to the transferring bank not being a reference (however worded and whether express or implied) to terms and conditions of, or to a scale of fees of, the transferring bank, there were substituted a reference to Dao Heng Bank provided always that this subsection shall not prevent Dao Heng Bank from varying the remuneration or scale of fees payable in accordance with the terms of the relevant instrument or order.

(3) Any will made before the appointed day which has not been proved in Hong Kong before the appointed day, and any will made on or after the appointed day, being a will forming part of the undertakings which appoints a transferring bank to be an executor, trustee or recipient of any property as trustee, shall, on and from the appointed day, be construed and have effect as if for any reference therein to such transferring bank as such executor, trustee or recipient or otherwise in connection with such appointment, not being a reference (however worded and whether express or implied) to terms and conditions of, or to a scale of fees of, such transferring bank, there were substituted a reference to Dao Heng Bank.

(4) No testamentary gift shall be adeemed by reason only of the operation of any of the provisions of this Ordinance.

7. Supplementary provisions

Without prejudice to the generality of any other provision of this Ordinance but subject to any provision of this Ordinance to the contrary effect, the following provisions of this section shall have effect other than in relation to the excluded property—

- (a) All existing contracts, agreements, insurance policies, options, novations, certificates, awards, land grants, conveyances, deeds, leases, licences, notices, permits, guarantees, documents granting or comprising any security interest, bonds, indemnities, mandates, instructions and other instruments and undertakings entered into by, made with, given to or by or addressed to a transferring bank (whether alone or with any other person and whether as principal or agent and whether in writing or not), shall be construed and have effect on and from the appointed day as if—

- (i) 當事一方為道亨銀行，而非該移轉銀行；
 - (ii) 凡提述該移轉銀行之處 (不論如何措詞，亦不論是明訂或隱含)，就須在指定日期當日或以後辦理的事情而言，均以提述道亨銀行取代；及
 - (iii) 凡提述該移轉銀行的董事或任何一名董事、高級人員或僱員之處 (不論如何措詞，亦不論是明訂或隱含)，就須在指定日期當日或以後辦理的事情而言，即為提述道亨銀行的董事，或道亨銀行為該目的而委任的董事、高級人員或僱員 (視情況所需而定)，或如無上述委任，則為提述身分與首述的董事、高級人員或僱員最為接近的道亨銀行的董事、高級人員或僱員。
- (b) 除第 17 條另有規定外，(a)(ii) 段適用於法定條文、任何移轉銀行並非立約一方的現有合約的條文，以及其他現有文件 (合約及遺囑除外) 的條文，一如該等條文適用於該段所適用的合約。
- (c) 移轉銀行與客戶之間的任何帳戶，須在指定日期當日移轉予道亨銀行，並成為道亨銀行與該客戶之間的帳戶，規限該帳戶的條件和附帶條件與先前的相同；就所有目的而言，該每一帳戶須當作為並未間斷的同一帳戶；而移轉銀行 (不論單獨或聯同其他人，亦不論以主事人或代理人的身分或以書面或其他形式) 訂立、參與訂定、接獲、發出或被指明為收件人的任何現有合約、協議、保險單、認購權文件、約務更替文件、證明書、裁決、批地文件、轉易書、契據、租契、特許、通知、許可證、擔保、授予抵押權益或包含抵押權益的文件、債權證明書、彌償、委託、指示及其他文書及承諾，自指定日期起，須在猶如屬以下情況下解釋和具有效力：凡提述移轉銀行與客戶之間的上述帳戶 (不論如何措詞，亦不論是明訂或隱含)，就須在指定日期當日或以後辦理的事情而言，並在文意許可的情況下，均以提述道亨銀行與該客戶之間上述並未間斷的帳戶取代：

- (i) Dao Heng Bank had been a party thereto instead of such transferring bank;
 - (ii) for any reference (however worded and whether express or implied) to such transferring bank there were substituted, as respects anything falling to be done on or after the appointed day, a reference to Dao Heng Bank; and
 - (iii) any reference (however worded and whether express or implied) to the directors or to any director, officer or employee of such transferring bank were, as respects anything falling to be done on or after the appointed day, a reference to the directors of Dao Heng Bank or, as the case may require, to such director, officer or employee of Dao Heng Bank as Dao Heng Bank may appoint for that purpose or, in default of appointment, to the director, officer or employee of Dao Heng Bank who corresponds as nearly as may be to the first-mentioned director, officer or employee.
- (b) Paragraph (a)(ii) shall, subject to the provisions of section 17, apply to any statutory provision, to any provision of any existing contract to which a transferring bank was not a party and to any provision of any other existing document (not being a contract or a will) as they apply to a contract to which that paragraph applies.
- (c) Any account between a transferring bank and a customer shall, on the appointed day, be transferred to Dao Heng Bank and become an account between Dao Heng Bank and such customer subject to the same conditions and incidents as theretofore; and each such account shall be deemed for all purposes to be a single continuing account; and any existing contracts, agreements, insurance policies, options, novations, certificates, awards, land grants, conveyances, deeds, leases, licences, notices, permits, guarantees, documents granting or comprising any security interest, bonds, indemnities, mandates, instructions and other instruments and undertakings entered into by, made with, given to or by or addressed to a transferring bank (whether alone or with any other person and whether as principal or agent and whether in writing or not), shall be construed and have effect on and from the appointed day as if any reference (however worded and whether express or implied) to such account between a transferring bank and a customer there were substituted, as respects anything falling to be done on or after the appointed day, and so far as the context permits, a reference to the continuing account between Dao Heng Bank and such customer:

但本條例並不影響道亨銀行或任何客戶更改持有帳戶的條件或附帶條件的權利。

- (d) 向移轉銀行或由移轉銀行發出的 (不論是單獨或與另一人共同接獲或發出) 現有指示、命令、指令、委託、授權書、授權、承諾或同意 (不論是否以書面作出，亦不論是否與帳戶有關)，自指定日期起，猶如是向道亨銀行或由道亨銀行發出，或向道亨銀行連同該另一人發出，或由道亨銀行連同該另一人共同發出 (視屬何情況而定) 而適用和具有效力。
- (e) 要求移轉銀行兌現的或由移轉銀行接獲、承兌或背書的、又或須於移轉銀行的任何營業地點支付的可流轉票據或付款指令票據，無論是在指定日期之前、當日或之後要求移轉銀行兌現、或在指定日期之前、當日或之後接獲、承兌或背書，自指定日期起，均在猶如已要求道亨銀行兌現，或已由道亨銀行接獲、承兌或背書，又或須於道亨銀行的同一營業地點支付的情況下，具有同樣效力。
- (f) 移轉銀行以受寄人身分持有對任何文件、紀錄、貨物或其他物件的保管，須在指定日期當日移交道亨銀行，而移轉銀行根據關乎上述文件、紀錄、貨物或物件的委託保管合約而具有的權利及義務，須在該日成為道亨銀行的權利及義務。
- (g)
 - (i) 在緊接指定日期之前由移轉銀行或移轉銀行的代名人、代理人或受託人持有而用作保證就任何法律責任付款或解除任何法律責任的抵押權益，自指定日期起，須由道亨銀行持有、或由上述代名人、代理人或受託人 (視情況所需而定) 為道亨銀行持有，並須供道亨銀行 (不論是為該銀行本身的利益，或是為其他人的利益 (視屬何情況而定)) 用作保證就該法律責任付款或解除該法律責任的抵押權益。
 - (ii) 就按照本條例的條文轉歸或當作轉歸道亨銀行的抵押權益及以其作為保證的法律責任而言，道亨銀行所享有的權利及優先權，以及規限該銀行的義務及附帶條件，與有關的移轉銀行如繼續持有該抵押權益本來會享有的權利及優先權及本來會規限有關的移轉銀行的義務及附帶條件一樣。

Provided that nothing in this Ordinance shall affect any right of Dao Heng Bank or of any customer to vary the conditions or incidents subject to which any account is kept.

- (d) Any existing instruction, order, direction, mandate, power of attorney, authority, undertaking or consent (whether in writing or not and whether or not in relation to an account) given to or by a transferring bank, either alone or jointly with another person, shall apply and have effect, on and from the appointed day, as if given to or by Dao Heng Bank or, as the case may be, to or by Dao Heng Bank jointly with such other person.
- (e) Any negotiable instrument or order for payment of money drawn on, or given to, or accepted or endorsed by, a transferring bank, or payable at any place of business of a transferring bank, whether so drawn, given, accepted or endorsed before, on or after the appointed day, shall have the same effect on and from the appointed day, as if it had been drawn on, or given to, or accepted or endorsed by Dao Heng Bank, or were payable at the same place of business of Dao Heng Bank.
- (f) The custody of any document or record, goods or other thing held by a transferring bank as bailee shall pass to Dao Heng Bank on the appointed day, and the rights and obligations of a transferring bank under any contract of bailment relating to any such document or record, goods or thing shall on that day become rights and obligations of Dao Heng Bank.
- (g)
 - (i) Any security interest held immediately before the appointed day by a transferring bank, or by a nominee or agent of or trustee for a transferring bank, as security for the payment or discharge of any liability shall, on and from the appointed day, be held by, or, as the case may require, by that nominee, agent or trustee for, Dao Heng Bank, and be available to Dao Heng Bank (whether for its own benefit or, as the case may be, for the benefit of any other person) as security for the payment or discharge of that liability.
 - (ii) In relation to any security interest vested or deemed to be vested in Dao Heng Bank in accordance with the provisions of this Ordinance and any liability thereby secured, Dao Heng Bank shall be entitled to the rights and priorities and be subject to the obligations and incidents to which the transferring bank in question would have been entitled and subject if it had continued to hold the security interest.

- (iii) 在不影響第 (ii) 節的一般性的原則下，如某一移轉銀行與道亨銀行之間或兩間移轉銀行之間，有任何現有法律責任存續，而移轉銀行或道亨銀行，或兩者其中之一的代名人、代理人或受託人就該法律責任持有抵押權益，則為強制執行該抵押權益或將該抵押權益變現的目的，即使有關業務歸屬道亨銀行，該法律責任仍須當作為繼續有效。
- (iv) 第 (i)、(ii) 或 (iii) 節所提述並擴及適用於未來貸款或法律責任的抵押權益，自指定日期起，須供道亨銀行 (不論是為該銀行本身的利益，或是為其他人的利益 (視屬何情況而定)) 用作保證未來貸款及法律責任獲得償付或解除的抵押權益，其可供使用的範圍及方式，在各方面而言均與在緊接該日之前，其作為保證移轉銀行或道亨銀行的未來貸款及法律責任獲得償付或解除的抵押權益一樣。
- (v) 即使有第 (i) 節的規定，如任何抵押權益在緊接指定日期之前，不會供道亨銀行用作保證就任何對其負有的法律責任付款或解除該法律責任，或不會供任何移轉銀行用作保證就任何對其負有的法律責任付款或解除該法律責任，則該抵押權益不得憑藉本條例自指定日期起成為可供道亨銀行就該法律責任用作保證，但如——
 - (A) 該抵押權益的條款另有明文規定；
 - (B) 道亨銀行取得授予該抵押權益的人的書面同意；或
 - (C) 該抵押權益是根據一般法律產生的，則屬例外。
- (vi) 即使有第 (ii) 節的規定，如道亨銀行在緊接指定日期之前不會就任何對其負有的法律責任享有在當時已屬存在的抵押權益所關乎的權利及優先權，或任何移轉銀行在緊接指定日期之前不會就任何對其

- (iii) Without prejudice to the generality of subparagraph (ii), in any case where any existing liability subsists between a transferring bank and Dao Heng Bank or between 2 transferring banks, in respect of which a transferring bank or Dao Heng Bank, or a nominee or agent of or trustee for a transferring bank or Dao Heng Bank holds a security interest, that liability shall, for the purpose of enforcing or realizing that security interest, be deemed to continue in effect notwithstanding the vesting of the undertakings in Dao Heng Bank.
- (iv) Any security interest referred to in subparagraph (i), (ii) or (iii) and which extends to future advances or liabilities shall, on and from the appointed day, be available to Dao Heng Bank (whether for its own benefit or, as the case may be, for the benefit of any other person) as security for the payment or discharge of future advances and liabilities to the same extent and in the same manner in all respects as future advances by, or liabilities to, a transferring bank or Dao Heng Bank were secured thereby immediately before that day.
- (v) Notwithstanding subparagraph (i), where immediately before the appointed day any security interest would not be available to Dao Heng Bank as security for the payment or discharge of any liability owing to it, or to any transferring bank as security for the payment or discharge of any liability owing to it, such security interest shall not become available to Dao Heng Bank as security for such liability on and from the appointed day by virtue of this Ordinance, unless—
 - (A) the terms of such security interest expressly provide otherwise;
 - (B) Dao Heng Bank obtains the written consent of the person or persons who granted such security interest; or
 - (C) such security interest arises at general law.
- (vi) Notwithstanding subparagraph (ii), where immediately before the appointed day, Dao Heng Bank would not, in respect of any liability owing to it, be entitled to the rights and priorities in relation to any security interest then in existence, or any transferring bank would not, in respect of any liability owing to it, be entitled to the rights and priorities in relation to any security interest then in existence, Dao Heng Bank shall not, in respect of such

負有的法律責任享有在當時已屬存在的抵押權益所關乎的權利及優先權，則道亨銀行不得憑藉本條例自指定日期起就該法律責任享有該等權利及優先權，但如——

- (A) 該抵押權益的條款另有明文規定；
 - (B) 道亨銀行取得授予該抵押權益的人的書面同意；或
 - (C) 該抵押權益是根據一般法律產生的，
- 則屬例外。

- (h) (i) 移轉銀行的權利或法律責任，如憑藉本條例而成為或當作為道亨銀行的權利或法律責任，則道亨銀行及所有其他人自指定日期起即具有同樣的權利、權力及補救 (尤其是提出法律程序，或在法律程序中抗辯，或向任何主管當局提出或反對申請的同樣權利及權力)，以便確定、完成或強制執行該權利或法律責任，猶如該權利或法律責任在任何時候均屬於道亨銀行一樣；而由移轉銀行提出或針對移轉銀行向任何主管當局提出、並在緊接指定日期之前存在或待決的法律程序，或由移轉銀行提出或針對移轉銀行向任何主管當局提出、並在緊接指定日期之前存在或待決的申請，均可由道亨銀行繼續進行，或可繼續針對道亨銀行進行。
- (ii) 如移轉銀行是仲裁程序的一方，而該移轉銀行的權利或法律責任在指定日期之前已屬該仲裁程序的有關事宜，則自指定日期起，道亨銀行即自動取代該移轉銀行成為該仲裁程序的一方，而無需任何其他一方或有關仲裁員的同意。
- (i) 裁定移轉銀行勝訴或敗訴的任何判決或裁決，如在指定日期之前仍未獲完全履行，則在指定日期當日，在可由或可針對該移轉銀行強制執行的範圍內，須成為可由或可針對道亨銀行強制執行。
- (j) 自指定日期起，任何適用於移轉銀行的法庭命令，即適用於道亨銀行而非該移轉銀行。
- (k) 本條例不得終止或損及在指定日期前由移轉銀行單獨或聯同他人委任的接管人或接管人兼管理人的委任、權限、權利或權力。

liability, be entitled to such rights and priorities on and from the appointed day by virtue of this Ordinance, unless—

(A) the terms of such security interest expressly provide otherwise;

(B) Dao Heng Bank obtains the written consent of the person or persons who granted such security interest; or

(C) such security interest arises at general law.

- (h) (i) Where by virtue of this Ordinance any right or liability of a transferring bank becomes or is deemed to become a right or liability of Dao Heng Bank, Dao Heng Bank and all other persons shall, on and from the appointed day, have the same rights, powers and remedies (and in particular the same rights and powers as to taking or resisting legal proceedings or making or resisting applications to any authority) for ascertaining, perfecting or enforcing that right or liability as if it had at all times been a right or liability of Dao Heng Bank; and any legal proceedings or application to any authority existing or pending immediately before the appointed day by or against a transferring bank may be continued by or against Dao Heng Bank.
- (ii) Where any right or liability of a transferring bank was before the appointed day the subject of arbitral proceedings to which the transferring bank was a party, Dao Heng Bank shall on and from the appointed day automatically be substituted for such transferring bank as a party to those proceedings, without the need for consent from any other party or from the arbitrator.
- (i) Any judgment or award obtained by or against a transferring bank and not fully satisfied before the appointed day shall on that day, to the extent to which it is enforceable by or against such transferring bank, become enforceable by or against Dao Heng Bank.
- (j) Any court order which applies to a transferring bank shall on and from the appointed day apply to Dao Heng Bank instead of to such transferring bank.
- (k) Nothing in this Ordinance shall terminate or prejudicially affect the appointment, authority, rights or powers of any receiver or of any receiver and manager appointed by a transferring bank, whether alone or with others, before the appointed day.

- (l) 如私隱專員本可就移轉銀行違反或被指稱違反《個人資料 (私隱) 條例》(第 486 章) 或保障資料原則一事而在緊接指定日期之前根據該條例就該移轉銀行行使任何權力，則自指定日期起，他可就道亨銀行行使該權力；但根據本條例將各移轉銀行的業務移轉予及轉歸道亨銀行，以及因預期或由於進行上述移轉及轉歸而向道亨銀行所作出的任何信息披露，並不屬違反移轉銀行在緊接該指定日期前所負有的保密責任，而道亨銀行或移轉銀行亦不屬違反《個人資料 (私隱) 條例》(第 486 章) 或保障資料原則。

8. 道亨銀行及各移轉銀行的會計處理

- (1) 不論其他條例有任何條文，憑藉本條例，自指定日期起——
- (a) 就各移轉銀行中每一銀行及道亨銀行各自的會計期而編製各移轉銀行及道亨銀行的資產負債表及損益表時，如指定日期是在該會計期內，則就各方面而言，該等報表須在猶如有關業務視為已於道亨銀行的該會計期的第一天依據第 5 條轉歸或當作依據第 5 條轉歸道亨銀行的情況下編製；
 - (b) DBS 廣安銀行的所有財產及負債 (除外財產則除外)，均須以其在 DBS 廣安銀行的報表中於道亨銀行上述會計期第一天的帳面價值，移轉予道亨銀行；
 - (c) 海外信託銀行的所有財產及負債 (除外財產則除外)，均須以其在道亨銀行的合併報表中於道亨銀行上述會計期第一天的帳面價值，移轉予道亨銀行；
 - (d) 在 DBS 廣安銀行的報表中述明的上述會計期第一天關於憑藉本條例轉歸道亨銀行的財產及負債的 DBS 廣安銀行現有的每一項儲備金，均須移轉予道亨銀行，並就所有目的而言，均屬及成為道亨銀行的儲備金；

- (l) The Privacy Commissioner may, on and from the appointed day, exercise in respect of Dao Heng Bank any power under the Personal Data (Privacy) Ordinance (Cap. 486) which he could have immediately before the appointed day exercised in respect of a transferring bank in respect of a breach or alleged breach by a transferring bank of that Ordinance or the data protection principles; but the transfer to, and vesting in, Dao Heng Bank by this Ordinance of the undertakings of the transferring banks and any disclosure to Dao Heng Bank of any information in contemplation or as a result thereof shall not amount to a breach of any duty of confidentiality to which a transferring bank is subject immediately before the appointed day or to a contravention by Dao Heng Bank or a transferring bank of the Personal Data (Privacy) Ordinance (Cap. 486) or the data protection principles.

8. Accounting treatment of Dao Heng Bank and the transferring banks

(1) On and from the appointed day, by virtue of this Ordinance and notwithstanding the provisions of any other Ordinance—

- (a) the balance sheets and profit and loss accounts of the transferring banks and Dao Heng Bank for the accounting period of each of the transferring banks and Dao Heng Bank in which the appointed day falls shall be prepared in all respects as if the undertakings had vested or deemed to have vested in Dao Heng Bank pursuant to section 5 on the first day of such accounting period of Dao Heng Bank;
- (b) all property and liabilities of DBS Kwong On Bank (other than excluded property) shall be transferred to Dao Heng Bank at their carrying value in the accounts of DBS Kwong On Bank on the first day of such accounting period of Dao Heng Bank;
- (c) all property and liabilities of Overseas Trust Bank (other than excluded property) shall be transferred to Dao Heng Bank at their carrying value in the consolidated accounts of Dao Heng Bank on the first day of such accounting period of Dao Heng Bank;
- (d) every existing reserve of DBS Kwong On Bank relating to the property and liabilities vested in Dao Heng Bank by virtue of this Ordinance as stated in the accounts of DBS Kwong On Bank on the first day of such accounting period of Dao Heng Bank shall be transferred to and for all purposes be and become a reserve of Dao Heng Bank;

- (e) 在道亨銀行的集團合併報表(包括海外信託銀行及道亨銀行)中的上述會計期第一天關於憑藉本條例轉歸道亨銀行的財產及負債的海外信託銀行現有的每一項儲備金，均須移轉予道亨銀行，並就所有目的而言，均屬及成為道亨銀行的儲備金；及
- (f) 依據 (d) 及 (e) 段產生的各項道亨銀行儲備金的款額、名稱及性質，在各方面而言均須與緊接在道亨銀行上述會計期第一天之前各移轉銀行相應的現有儲備金的款額、名稱及性質一樣，而各項成文法則及法律規則適用於道亨銀行的上述各項儲備金或就其而適用的方式，在各方面而言，均須與緊接在道亨銀行上述會計期第一天之前適用於各移轉銀行相應的現有儲備金或就其而適用的方式一樣。

(2) 第 (1) 款中凡提述一項現有儲備金時，均包括提述任何儲備金或同類準備金，而不論其名稱或稱謂如何(亦不論其款額是正是負)。在不影響前述條文的一般性的原則下，凡提述該等現有儲備金時，均包括提述損益表內貸方(或借方)所記的任何數額。

(3) 在不影響第 (1) 款的一般性的原則下，各移轉銀行在包括指定日期在內的財政年度開始後賺取的任何利潤或承擔的任何虧損，自指定日期起，並憑藉本條例就所有目的而言，均視作道亨銀行的利潤或虧損(視屬何情況而定)。

9. 課稅及稅務事宜

(1) 就《稅務條例》(第 112 章)而言，自指定日期起並就業務而言，道亨銀行須視作猶如是各移轉銀行的延續並在法律上與各移轉銀行均是同一人一樣。

(2) 據此(並在不影響第 (1) 款的一般性的原則下)——

- (a) 任何憑藉本條例轉歸或當作轉歸道亨銀行的財產或法律責任，就《稅務條例》(第 112 章)的任何目的而言，並不構成出售或以其他方式處置該財產或法律責任，亦不構成該財產或法律責任的性質的改變；

- (e) every existing reserve of Overseas Trust Bank relating to the property and liabilities vested in Dao Heng Bank by virtue of this Ordinance as consolidated in the group accounts of Dao Heng Bank (including Overseas Trust Bank and Dao Heng Bank) on the first day of such accounting period of Dao Heng Bank shall be transferred to and for all purposes be and become a reserve of Dao Heng Bank; and
- (f) the amount, description and character of every reserve of Dao Heng Bank which shall come into being pursuant to paragraphs (d) and (e) shall be the same in all respects as those of the corresponding existing reserve of the transferring banks immediately before the first day of such accounting period of Dao Heng Bank, and all enactments and rules of law shall apply to or in respect of every such reserve of Dao Heng Bank in the same manner in all respects as they applied to or in respect of the corresponding existing reserve of the transferring banks immediately before the first day of such accounting period of Dao Heng Bank.

(2) Every reference in subsection (1) to an existing reserve shall include a reference to any reserve or similar provision, irrespective of its name or designation (and whether the amount thereof be positive or negative in nature) and, without prejudice to the generality of the foregoing, every such reference shall include a reference to any sums standing to the credit (or debit) of any profit and loss account.

(3) Without prejudice to the generality of subsection (1), any profits or losses of the transferring banks earned or incurred after the beginning of the financial year of the transferring banks in which the appointed day shall occur, shall, on and from the appointed day, and by virtue of this Ordinance, be treated for all purposes as profits or, as the case may be, losses, of Dao Heng Bank.

9. Taxation and revenue matters

(1) For the purposes of the Inland Revenue Ordinance (Cap. 112), on and from the appointed day Dao Heng Bank shall be treated as if it were the continuation of and the same person in law with regard to the undertakings as the transferring banks.

- (2) Accordingly (and without affecting the generality of subsection (1))—
 - (a) a vesting or deemed vesting in Dao Heng Bank of any property or liabilities by virtue of this Ordinance does not constitute a sale or other disposal of or a change in the nature of that property or the liability for any purpose under the Inland Revenue Ordinance (Cap. 112);

(b) 各移轉銀行蒙受的虧損總額，如在其上一個完整財政年度結束時，就《稅務條例》(第 112 章) 第 19C 條而本可結轉但並未結轉及未以各移轉銀行的應評稅利潤抵銷，則該虧損總額即當作為道亨銀行的虧損；據此就該條例而言，該虧損總額可供以道亨銀行的應評稅利潤抵銷。

(3) 如各移轉銀行的利潤或虧損按照第 8(3) 條而視作道亨銀行的利潤或虧損，則——

- (a) 根據《稅務條例》(第 112 章) 第 IV 部就任何課稅年度計算各移轉銀行的應課稅利潤及虧損時，各移轉銀行的利潤及虧損無須計算在內；及
- (b) 根據《稅務條例》(第 112 章) 第 IV 部就評稅基期內包括有指定日期在內的課稅年度計算道亨銀行的應課稅利潤及虧損時，各移轉銀行的利潤或虧損須計算在內。

10. 僱傭合約

(1) 第 7(a) 條適用於移轉銀行聘用任何人的僱傭合約；而根據該合約受僱於移轉銀行及道亨銀行，就所有目的而言，須當作為連續受僱於同一僱主。

(2) 移轉銀行的董事、秘書或核數師，不得僅憑藉本條例而成為道亨銀行的董事、秘書或核數師 (視屬何情況而定)。

11. 退休金、公積金及酬金利益

(1) 構成或關乎為各移轉銀行僱員的利益而設立的退休金計劃及公積金計劃以及各移轉銀行須支付的酬金利益的契據及規則，自指定日期起，在文意許可的情況下，須在猶如其中提述各移轉銀行之處均以提述道亨銀行取代的情況下解釋和具有效力。

(b) the aggregate amount of any losses sustained by the transferring banks which are capable of but have not been carried forward and set off against assessable profits of the transferring banks for the purposes of section 19C of the Inland Revenue Ordinance (Cap. 112) as at the end of the last complete financial year of the transferring banks are deemed to be losses of Dao Heng Bank and, accordingly, available for set off against the assessable profits of Dao Heng Bank for the purposes of that Ordinance.

(3) The profits or losses of the transferring banks treated as profits or losses of Dao Heng Bank in accordance with section 8(3)—

(a) shall not be taken into account for the purpose of computing the profits and losses of the transferring banks which are chargeable to tax under Part IV of the Inland Revenue Ordinance (Cap. 112) for any year of assessment; and

(b) shall be taken into account for the purpose of computing the profits and losses of Dao Heng Bank which are chargeable to tax under Part IV of the Inland Revenue Ordinance (Cap. 112) for the year of assessment the basis period for which includes the appointed day.

10. Contracts of employment

(1) Section 7(a) shall apply to a contract for the employment of any person by a transferring bank and employment with a transferring bank and Dao Heng Bank under any such contract shall be deemed for all purposes to be a single continuing employment.

(2) No director, secretary or auditor of a transferring bank shall by virtue only of this Ordinance become a director, secretary or auditor, as the case may be, of Dao Heng Bank.

11. Pensions, provident funds and gratuity benefits

(1) The deeds and rules constituting or relating to the pension fund schemes and the provident fund schemes established for the benefit of employees of the transferring banks, and the gratuity benefits payable by the transferring banks shall, on and from the appointed day, be construed and have effect, so far as the context permits, as if for any reference therein to the transferring banks there were substituted a reference to Dao Heng Bank.

(2) 憑藉本條例而成為道亨銀行高級人員或僱員的移轉銀行高級人員或僱員，不得僅憑藉本條例而有權參加道亨銀行的任何退休金計劃、公積金計劃或享有道亨銀行支付的酬金利益，而道亨銀行的現有高級人員或僱員，亦不得僅憑藉本條例而有權參加移轉銀行的任何退休金計劃、公積金計劃或享有移轉銀行支付的酬金利益。

12. 對禁止合併的寬免

(1) 在移轉銀行或道亨銀行或其各自的任何附屬公司是立約一方的合約或其他文件內，如載有任何條文，而該條文禁止各移轉銀行的任何業務移轉予及轉歸或當作移轉予及轉歸道亨銀行，或該條文的效力是禁止各移轉銀行的任何業務移轉予及轉歸或當作移轉予及轉歸道亨銀行，則該條文藉本條例而當作已被免去。

(2) 在移轉銀行或道亨銀行或其各自的任何附屬公司是立約一方的合約或其他文件內，如載有任何條文，而該條文表明各移轉銀行的任何業務移轉予及轉歸或當作移轉予及轉歸道亨銀行會引致出現違約或失責，或當作出現違約或失責，則該條文藉本條例而當作已被免去。

13. 證據：簿冊及文件

(1) 凡簿冊及其他文件如在指定日期前本會就任何事宜作為對移轉銀行有利或不利的證據者，則就同一事宜而言，可接納為對道亨銀行有利或不利的證據。

(2) 在本條中，“文件”(documents)一詞的涵義，與《證據條例》(第 8 章)第 46 條中該詞的涵義相同。

14. 《證據條例》(第 8 章) 第 III 部

(1) 自指定日期起，《證據條例》(第 8 章) 第 III 部適用於憑藉本條例轉歸或當作轉歸道亨銀行的各移轉銀行的銀行紀錄，亦適用於在指定日期前已列入該等紀錄內的記項，猶如該等紀錄是道亨銀行的紀錄一樣。

(2) No officer or employee of a transferring bank who becomes an officer or employee of Dao Heng Bank by virtue of this Ordinance shall, by virtue only of this Ordinance, be entitled to participate in any pension fund scheme of, provident fund scheme of, or gratuity benefits payable by Dao Heng Bank, and no existing officer or employee of Dao Heng Bank shall, by virtue only of this Ordinance, be entitled to participate in any pension fund scheme of, provident fund scheme of, or gratuity benefits payable by a transferring bank.

12. Waiver of prohibition of merger

(1) Any provision contained in any contract or other document to which a transferring bank or Dao Heng Bank or any of their respective subsidiaries is a party which prohibits or has the effect of prohibiting the transfer and vesting or deemed transfer and vesting of any of the undertakings of the transferring banks in Dao Heng Bank shall be deemed by this Ordinance to have been waived.

(2) Any provision contained in any contract or other document to the effect that a breach of contract or a default shall occur or be deemed to occur as a result of the transfer and vesting or deemed transfer and vesting of any of the undertakings of the transferring banks in Dao Heng Bank, and to which a transferring bank or Dao Heng Bank or any of their respective subsidiaries is a party, shall be deemed by this Ordinance to have been waived.

13. Evidence: books and documents

(1) All books and other documents which would, before the appointed day, have been evidence in respect of any matter for or against a transferring bank shall be admissible in evidence in respect of the same matter for or against Dao Heng Bank.

(2) In this section, “documents” (文件) has the same meaning as in section 46 of the Evidence Ordinance (Cap. 8).

14. Part III of Evidence Ordinance (Cap. 8)

(1) On and from the appointed day, Part III of the Evidence Ordinance (Cap. 8) shall apply to the banker’s records of the transferring banks vested or deemed to be vested in Dao Heng Bank by virtue of this Ordinance, and to entries made in those records before the appointed day, as if such records were the records of Dao Heng Bank.

(2) 就《證據條例》(第 8 章) 第 20 條而言，凡銀行紀錄憑藉本條例當作已成為道亨銀行的銀行紀錄，而其內有任何記項看來是在指定日期前已列入者，則該等紀錄須當作為在列入該記項時已屬道亨銀行的普通銀行紀錄，而任何該等記項須當作為在慣常及通常業務運作中列入的。

(3) 就《證據條例》(第 8 章) 第 40 及 41 條而言，先前由各移轉銀行保管或控制的文件，均憑藉本條例當作為先前由道亨銀行保管或控制的文件。

(4) 在本條中，“銀行紀錄”(banker's records) 一詞須按照《證據條例》(第 8 章) 第 2 條解釋。

15. 轉歸和移轉的證據

(1) 就所有目的而言，出示本條例的政府印務局文本，即為各移轉銀行的財產及法律責任按照本條例的條文轉歸和移轉予或當作轉歸和移轉予道亨銀行的不可推翻的證據。

(2) 在不損害第 (1) 款的一般性的原則下——

- (a) 本條例的政府印務局文本連同刊登指定日期公告的證據，就憑藉本條例移轉予和轉歸或當作轉歸道亨銀行的註冊證券而言，就所有目的而言均具有就該等註冊證券從各移轉銀行移轉予道亨銀行而妥為簽立的移轉文書的效用；
- (b) 任何契據或其他文件如在指定日期當日或以後訂立或簽立，而道亨銀行或移轉銀行藉該文件而單獨或聯同其他人將移轉銀行在緊接指定日期前單獨或聯同其他人持有並屬業務組成部分的財產轉易或移轉予(不論是否為代價而作出) 或其意是將該財產轉易或移轉予任何人(不論是否為代價而作出)，或藉該文件單獨或聯同其他人申請註冊為該財產的持有人或所有人，則上述契據或文件即為該移轉銀行就該財產所佔的權益根據本條例轉歸或當作轉歸道亨銀行的充分證據；

(2) For the purposes of section 20 of the Evidence Ordinance (Cap. 8), banker's records which are deemed to have become the banker's records of Dao Heng Bank by virtue of this Ordinance shall be deemed to have been the ordinary banker's records of Dao Heng Bank at the time of the making of any entry therein which purports to have been made before the appointed day, and any such entry shall be deemed to have been made in the usual and ordinary course of business.

(3) For the purposes of sections 40 and 41 of the Evidence Ordinance (Cap. 8), documents previously in the custody or control of the transferring banks shall by virtue of this Ordinance be deemed to be documents previously in the custody or control of Dao Heng Bank.

(4) In this section, "banker's records" (銀行紀錄) shall be construed in accordance with section 2 of the Evidence Ordinance (Cap. 8).

15. Evidence of vesting and transfer

(1) The production of a Government Printer's copy of this Ordinance shall, for all purposes, be conclusive evidence of the vesting and transfer or deemed vesting and transfer of any property and liabilities of the transferring banks in Dao Heng Bank in accordance with the provisions of this Ordinance.

(2) Without prejudice to the generality of subsection (1)—

- (a) a Government Printer's copy of this Ordinance, together with evidence of publication of notice of the appointed day, shall, in relation to any registered securities transferred to, and vested or deemed to be vested in, Dao Heng Bank by virtue of this Ordinance, operate for all purposes as a duly executed instrument of transfer in respect of the transfer of such registered securities from the transferring banks to Dao Heng Bank;
- (b) any deed or other document made or executed on or after the appointed day, whereby Dao Heng Bank or a transferring bank, whether alone or jointly with any other person, conveys or transfers, or purports to convey or transfer, to any person (whether for consideration or not), or applies to be registered as the holder or proprietor of, any property held by a transferring bank immediately before the appointed day and forming part of the undertakings, whether alone or jointly with any other person, shall be sufficient evidence that the interest of the transferring bank in that property is vested or deemed to be vested in Dao Heng Bank under this Ordinance;

- (c) 自指定日期起，道亨銀行或移轉銀行如有其他交易或看來是交易的交易，而其所涉及或關乎的財產或法律責任在緊接該日期前屬各移轉銀行所有並屬業務組成部分的財產或法律責任，則為有關交易的其他一方或透過或藉着該一方提出申索的人的利益起見，道亨銀行須當作有全面的權力及權限進行該宗交易，猶如該等財產或法律責任已根據本條例轉歸或當作轉歸道亨銀行一樣；
- (d) 由道亨銀行或代表該銀行在任何時候發出的證明書，證明其內所指明的財產或法律責任（該財產或法律責任在緊接指定日期前為移轉銀行的財產或法律責任）根據本條例當作或不當作（視屬何情況而定）轉歸道亨銀行者，就所有目的而言均為其所證明事實的不可推翻的證據。

(3) 第 (2)(c) 或 (d) 款並不影響道亨銀行及各移轉銀行中每一銀行之間就或看來已就其中一方在涉及或關乎任何財產或法律責任所作出的任何事情，對另一方所負的法律責任。

(4) 在第 (2) 款中——

- (a) “轉易”(convey) 包括按揭、押記、租賃、允許、藉轉歸聲明或轉歸文書而作出的轉歸、卸棄、讓予或其他方式的轉易；及
- (b) “註冊證券”(registered securities) 指股份、股額、債權證、貸款、債權證明書、單位信託計劃中的單位或受該項計劃的信託所規限的投資的其他股份，以及其他各類可轉讓而持有人是名列登記冊（不論登記冊是否在香港備存）的證券。

(5) 本條不適用於第 5(2) 條適用範圍內的財產。

16. 土地權益

(1) 土地權益憑藉本條例轉歸或當作轉歸道亨銀行一事——

- (a) 就《業主與租客（綜合）條例》(第 7 章) 第 53(4)(a) 或 (7)(a)、119E(2) 或 119H(1)(a) 條而言，並不構成該權益的取得、處置、轉讓、移轉、或放棄管有該權益；或

- (c) where there is any other transaction or purported transaction by Dao Heng Bank or a transferring bank on or after the appointed day in connection with, or in relation to, any property or liabilities which are property or liabilities of the transferring banks immediately before that day and forming part of the undertakings, it shall be deemed in favour of any other party to the transaction, or any person claiming through or under him, that Dao Heng Bank has full power and authority for that transaction as if the property or liabilities were vested or deemed to be vested in it under this Ordinance;
- (d) a certificate given by or on behalf of Dao Heng Bank at any time that any property or liabilities specified in the certificate (which property or liabilities immediately before the appointed day are the property or liabilities of a transferring bank) are or, as the case may be, are not, deemed to be vested in Dao Heng Bank under this Ordinance, shall be conclusive evidence for all purposes of the fact so certified.

(3) Nothing in subsection (2)(c) or (d) shall affect the liability of Dao Heng Bank and each of the transferring banks to one another in respect of anything done, or purporting to have been done, by any of them in connection with, or in relation to, any property or liabilities.

(4) In subsection (2)—

- (a) “convey” (轉易) includes mortgage, charge, lease, assent, vest by way of vesting declaration or vesting instrument, disclaim, release or otherwise assure; and
- (b) “registered securities” (註冊證券) means shares, stocks, debentures, loans, bonds, units of a unit trust scheme or other shares of the investments subject to the trusts of such a scheme, and other securities of any description which are transferable and the holders of which are entered in a register (whether maintained in Hong Kong or not).

(5) Nothing in this section applies to any property falling within section 5(2).

16. Interests in land

(1) The vesting or deemed vesting in Dao Heng Bank of an interest in land by virtue of this Ordinance shall not—

- (a) constitute an acquisition, disposal, assignment, transfer or parting with possession of that interest for the purposes of section 53(4)(a) or (7)(a), 119E(2) or 119H(1)(a) of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7); or

- (b) 就《業主與租客(綜合)條例》(第 7 章)第 6(1)(b)條而言，並不構成該權益的轉讓或分租或該權益的轉讓協議或分租協議；或
- (c) 並無將租賃權益併入其預期的復歸權的效用；或
- (d) 就關乎該權益或影響該權益的文書所載的條文而言，並不構成對該權益作出轉讓、移轉、轉予、放棄管有、作出處理或其他產權處置；或
- (e) 不屬違反禁止讓與的契諾或條件；或
- (f) 並不導致任何權利的喪失，亦不引致損害賠償或其他訴訟行動；或
- (g) 並不令任何合約或抵押權益失效或獲得解除；或
- (h) 並不終絕、影響、更改、縮減或延遲該權益的優先權，不論該優先權是根據《土地註冊條例》(第 128 章)、普通法或衡平法而存在的。

(2) 所有在緊接指定日期前以移轉銀行的名義(無論單獨或聯同其他人)就土地權益作出的現有登記，自指定日期起均須在猶如已將“Dao Heng Bank Limited (道亨銀行有限公司)”的名義而非上述移轉銀行的名義記入土地登記冊上的情況下解釋和具有效力。

(3) 為使道亨銀行能夠在其認為合適時，將憑藉本條例移轉予及轉歸或當作轉歸該銀行的財產的擁有權，藉擁有權公告、契據、文書或其他方式予以完備，或使道亨銀行能夠追溯該擁有權，本條例須當作及可用作為就上述財產以道亨銀行為受益人而作出的轉讓、轉易、移轉或一般產權處置(視屬何情況而定)。

(4) 道亨銀行須就憑藉本條例移轉予及轉歸或當作轉歸道亨銀行的各移轉銀行的全部財產轉歸一事，將本條例的政府印務局文本，就憑藉本條例而移轉予及轉歸或當作轉歸道亨銀行的財產，在土地註冊處登記，或安排將該文本就該等財產在土地註冊處登記。

(5) 為免生疑問，道亨銀行或各移轉銀行並不因本條而免受《印花稅條例》(第 117 章)的條文所規限。

- (b) constitute an assignment or underlease of, or an agreement to assign or underlet, that interest for the purposes of section 6(1)(b) of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7); or
- (c) operate so as to merge any leasehold interest in the reversion expectant on it; or
- (d) constitute an assignment, transfer, devolution, parting with possession, dealing with or other disposition of that interest for the purposes of any provision contained in any instrument concerning or affecting that interest; or
- (e) operate as a breach of covenant or condition against alienation; or
- (f) give rise to any forfeiture, damages or other right of action; or
- (g) invalidate or discharge any contract or security interest; or
- (h) extinguish, affect, vary, diminish or postpone any priority of that interest, whether under the Land Registration Ordinance (Cap. 128), at law or in equity.

(2) All existing registration of any interest in land in the name of a transferring bank (whether alone or with any other person) immediately before the appointed day shall be construed and have effect on and from the appointed day as if the name “Dao Heng Bank Limited (道亨銀行有限公司)” had been entered on the land register instead of the name of such transferring bank.

(3) To enable Dao Heng Bank to complete title, if thought fit, to any property transferred to it and vested or deemed to be vested in it by virtue of this Ordinance by notice of title, deed, instrument or otherwise, or to deduce title, this Ordinance shall be deemed to be, and may be used as an assignment, conveyance, transfer or, as the case may be, general disposition of such property in favour of Dao Heng Bank.

(4) Dao Heng Bank shall register or cause to be registered in the Land Registry a Government Printer’s copy of this Ordinance against a property transferred to it and vested or deemed to be vested in it by virtue of this Ordinance in respect of the vesting of all the properties of the transferring banks transferred to and vested or deemed to be vested in Dao Heng Bank by virtue of this Ordinance.

(5) For the avoidance of doubt, nothing in this section shall exempt Dao Heng Bank and the transferring banks from the provisions of the Stamp Duty Ordinance (Cap. 117).

17. 關於銀行的成文法則的保留條文

道亨銀行或移轉銀行或上述其中之一的任何附屬公司，並不因本條例而免受任何規管上述銀行或公司的業務經營的成文法則的條文所規限。

18. 公司的保留條文

本條例並不損害道亨銀行修改其組織章程大綱及組織章程細則的權力，或處置或處理其財產、抵押權益或法律責任、或經營或不再繼續經營其業務任何部分的權力；而本條例亦不損害 DBS 集團中任何成員在指定日期前修改其組織章程大綱及組織章程細則的權力，或處置或處理其財產、抵押權益或法律責任的權力。

19. 保留條文

本條例的條文不影響亦不得當作影響中央或香港特別行政區政府根據《基本法》和其他法律的規定所享有的權利或任何政治體或法人團體或任何其他人的權利，但本條例所述及者和經由、透過或藉著他們提出申索者除外。

摘要說明

本條例草案的目的是將 DBS 廣安銀行有限公司及海外信託銀行有限公司的業務移轉予道亨銀行有限公司。道亨銀行有限公司、DBS 廣安銀行有限公司及海外信託銀行有限公司均為根據《銀行業條例》(第 155 章) 領有牌照且在香港成立為法團的銀行。

17. Saving for enactments concerning banking institutions

Nothing in this Ordinance shall exempt Dao Heng Bank or a transferring bank or any subsidiary of Dao Heng Bank or a transferring bank from the provisions of any enactment regulating the carrying on of the business of any of them.

18. Saving for companies

Nothing in this Ordinance shall prejudice the powers of Dao Heng Bank to alter its memorandum and articles of association or to dispose of, or deal with, its property, security interests or liabilities or to carry on or discontinue any part of its business; and nothing in this Ordinance shall prejudice the powers of any member of the DBS Group to alter its memorandum and articles of association or to dispose of, or deal with, its property, security interests or liabilities before the appointed day.

19. Saving

Nothing in this Ordinance shall affect or be deemed to affect the rights of the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws, or the rights of any body politic or corporate or of any other person except such as are mentioned in this Ordinance and those claiming by, from or under them.

Explanatory Memorandum

The purpose of this Bill is to transfer the undertakings of DBS Kwong On Bank Limited and Overseas Trust Bank, Limited to Dao Heng Bank Limited. Dao Heng Bank Limited, DBS Kwong On Bank Limited and Overseas Trust Bank, Limited are banks licensed under the Banking Ordinance (Cap. 155) and are incorporated in Hong Kong.

2. 本條例草案就 DBS 廣安銀行有限公司及海外信託銀行有限公司的業務在指定日期當日轉歸或當作轉歸道亨銀行有限公司訂定條文(草案第 5 條)；並就 DBS 廣安銀行有限公司及海外信託銀行有限公司更改名稱以及撤銷 DBS 廣安銀行有限公司及海外信託銀行有限公司的銀行牌照訂定條文(草案第 4 條)；本條例草案亦包括若干補充條文：其中載有關於轉歸在信託及遺囑方面的效力(草案第 6 條)、道亨銀行有限公司、DBS 廣安銀行有限公司及海外信託銀行有限公司的會計處理(草案第 8 條)、課稅事宜(草案第 9 條)、與客戶、借款人、僱員及其他第三方的關係(草案第 7、10、11 及 12 條)以及證據(草案第 13 至 15 條)。

道亨銀行有限公司
DBS 廣安銀行有限公司
海外信託銀行有限公司
的代表律師
富而德律師事務所

2. The Bill provides for the vesting or deemed vesting of the undertakings of DBS Kwong On Bank Limited and Overseas Trust Bank, Limited in Dao Heng Bank Limited on the appointed day (clause 5), for the change of name of DBS Kwong On Bank Limited and Overseas Trust Bank, Limited and revocation of the banking licence of DBS Kwong On Bank Limited and Overseas Trust Bank, Limited (clause 4) and contains a number of supplementary provisions relating, inter alia, to the effect of the vesting in relation to trusts and wills (clause 6), the accounting treatment of Dao Heng Bank Limited, DBS Kwong On Bank Limited and Overseas Trust Bank, Limited (clause 8), taxation matters (clause 9), the relationship with customers, borrowers, employees and other third parties (clauses 7, 10, 11 and 12), and evidence (clauses 13 to 15).

FRESHFIELDS BRUCKHAUS
DERINGER

Solicitors for
Dao Heng Bank Limited
DBS Kwong On Bank Limited
Overseas Trust Bank, Limited