

Subcommittee on Financial Institutions (Resolution) (Protected Arrangements) Regulation and Financial Institutions (Resolution) Ordinance (Commencement) Notice 2017

Response to further questions raised by Hon James To

This note sets out the Government's response to the follow-up questions raised by Hon James To subsequent to our reply issued on 8 June.

Question (1): in the event of an Authorized Institution's ("AI") failure, confirm that it is not possible to make a transfer instrument transferring that AI's deposits to a bridge institution ("BI") unless it is an AI.

2. In the event of an AI's failure, the Monetary Authority ("MA"), as the resolution authority ("RA") of the AI, will ensure that the AI's deposits will only be transferred to a BI that is authorized to carry out deposit-taking business as section 12(1) of the Banking Ordinance (Cap. 155) ("BO") provides that no business of taking deposits shall be carried on in Hong Kong except by an AI. That is to say, the MA as RA would not transfer a deposit-taking business to a BI unless it is an AI because of the restriction under section 12(1) of the BO. It will be an offence under section 12(6) of the BO if the BI takes deposits without being authorised as an AI.

3. As set out in section 12 of the Deposit Protection Scheme Ordinance (Cap. 581) ("DPSO"), every AI is a member of the deposit protection scheme ("DPS") and therefore, the BI, as an AI, is a member of the DPS. In addition to the above protections linked to the BI being established as an AI, the Financial Institutions (Resolution) Ordinance (Cap. 628) ("FIRO") also specifies additional statutory protections for deposits transferred to a BI, specifically stating that: (i) protected deposits which are transferred will remain as protected deposits for six months or, if later, until its maturity date (see section 12(4) and (5) of Schedule 4 to the FIRO); and (ii) the DPS compensation protection that would be available to depositors whose deposits are transferred to a transferee (i.e. a BI) is increased for six months to up to double the maximum amount

specified in the DPSO (see section 12(7) and (8) of Schedule 4 to the FIRO).

Question (2): if, after the transfer of a failed AI to a BI by the MA, the BI itself failed one day after its established, and the BI had not yet made any contributions to the DPS, would the deposits in the BI be protected under the DPSO?

4. As required by section 43 of the FIRO, the BI will have to be established as a company that is wholly or partially owned by the Government. And as noted in response to Question (1), the MA as RA would not transfer a deposit-taking business to a BI unless it is an AI because of the restriction under section 12(1) of the BO.

5. If the BI, as an AI, were to fail one day after the transfer of deposits is effected and the BI has not yet made any contributions to the DPS, the deposits transferred would still be subject to the same statutory protection under the DPSO. The transfer of deposits to the BI does not change the protection afforded to the deposits under the DPSO in the same way as any deposit held by another AI. The statutory protections under the FIRO or DPSO for deposits transferred by the MA to a BI, as an AI, are not dependent on the BI having made any contributions to the DPS as specified in section 15 of the DPSO.

6. As set out in section 12 of the DPSO, every AI is a member of the DPS and therefore, the BI, as an AI, would be a member of the DPS. Section 27 of the DPSO specifies the entitlement to compensation in respect of protected deposits in the event that a DPS scheme member fails. In addition to the above protections linked to the BI being established as an AI and a member of the DPS, the FIRO also specifies additional statutory protections for deposits transferred to a BI as detailed in paragraph 3 above.

**Financial Services and the Treasury Bureau
Hong Kong Monetary Authority
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