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# Newsletter

## Banking and Finance

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### What's inside?



# Prudential Measures for Property Mortgage Loans and Other Related Supervisory Requirements

Simon Deane and Kelly Poon

The Hong Kong Monetary Authority ("**HKMA**") has made adjustments to the countercyclical macroprudential measures for property mortgage loans and related supervisory requirements in response to a recent decline in property prices in Hong Kong. These adjustments aim to maintain banking stability and ensure proper risk management of property lending by authorized institutions ("**AIs**").

The adjustments to property mortgage loans are as follows:-

(i) Residential properties for self-occupation:

(a) Maximum loan-to-value ("**LTV**") ratios adjusted to 70% for properties valued at HK$30 million or below.

(b) Maximum LTV ratio adjusted to 60% for properties valued at HK$35 million or above.

(c) Gradual downward adjustment of LTV ratios for properties valued between HK$30 million and HK$35 million.

(d) For non-self-use residential properties, maximum LTV ratio adjusted from 50% to 60%.

(ii) Non-residential properties (including offices, retail shops, and industrial buildings):

(a) Maximum LTV ratio adjusted from 60% to 70%.

(iii) Mortgage loans based on the net worth of applicants:

(a) Maximum LTV ratio adjusted from 50% to 60% for both residential and non-residential properties

The HKMA has also suspended the interest rate stress testing requirement for property mortgage loans due to the US Federal Reserve's indication of a possible end to rate hikes, which reduces the likelihood of further mortgage rate increases in Hong Kong.

In addition, the HKMA will increase the financing caps for lending to property developers to pre-2017 levels. The overall financing cap will rise from 50% to 60% of the expected value of completed properties. The financing cap for property site value will increase from 40% to 50%, and the financing cap for construction costs will rise from 80% to 100%. The requirement for additional capital for exposures to property developers offering high LTV mortgages will also be lifted.

Connected with these adjustments, the Government has also recently reduced stamp duty on property transactions, a measure implemented to boost the property market. The abolition of the longstanding property cooling measures included removal of Buyer's Stamp Duty targeting non-permanent residents of Hong Kong, New Residential Stamp Duty applicable to second-time purchasers, and Special Stamp Duty aimed at homeowners who resold their properties within a two-year period. By adjusting the LTV ratios and suspending the interest rate stress testing requirement, the HKMA aims to support property transactions and provide greater access to financing for potential homebuyers and property developers.

For more detailed information, please refer to the relevant HKMA circular by clicking here.

# Consultation conclusions on the enhancements to the Deposit Protection Scheme


## Simon Deane and Sally Lau


The HKMA issued a press release on 6 February 2024 in relation to the consultation conclusions on the enhancements to the Deposit Protection Scheme ("**DPS**").

The Hong Kong Deposit Protection Board (the "**Board**") launched a three-month public consultation on 13 July 2023. In the consultation paper, the Board set out a number of policy recommendations, including (i) raising the protection limit; (ii) refining the levy system; (iii) enhancing the deposit protection arrangements in the event of a bank merger; (iv) expanding the requirement on the display of the DPS membership sign to digital channels; and (v) streamlining the negative disclosure requirements on non-protected deposits for private banking customers.

On 6 February 2024, the Board published the conclusions on the public consultation, containing the major comments received and the Board's response to those comments.

Having carefully considered all the comments received and relevant factors, the Board considers that raising the protection limit from HK$500,000 to HK$800,000 is sufficient at this stage suitably to enhance protection of depositors. The Board will proceed to prepare legislative amendments based on the proposals in the consultation paper.

For the press release, please see here. To access a full copy of the report on consultation conclusions, please see here.

# Public consultation on proposal for information sharing among Authorized Institutions to aid in prevention or detection of crime


## Simon Deane and Crystal Choi


The HKMA issued a public consultation paper on 23 January 2024 to gather feedback and opinions regarding his proposal to enable AIs to engage in the sharing of customer account information. The primary objective of this proposal is to prevent and detect financial crime.

In recent years, there has been a significant global surge in financial crime, particularly digital fraud, which has also impacted Hong Kong. Apart from inflicting harm on victims, extensive digital fraud has the potential to erode public trust in the adoption of innovative digital financial services. Despite the progress achieved through public-private information sharing partnerships, Hong Kong still faces the persistent challenge of criminals exploiting the financial system for illicit fund movement.

In this regard, the HKMA seeks input from the banking sector and the public regarding his proposal to enable AI-to-AI information sharing. This proposal encompasses legislative amendments aimed at offering legal protection to AIs and implementing safeguards to preserve data privacy and customer confidentiality. The proposed arrangement aligns with comparable advancements observed in other international financial centres.

The public consultation will last until 29 March 2024 and the consultation paper is available here.

# Provision of Custodial Services for Digital Assets

## Simon Deane and Kelly Poon

The HKMA has issued guidance on the provision of custodial services for digital assets by AIs in response to the increasing interest in digital asset-related activities on 20 February 2024. The objective of this guidance is to ensure the adequate safeguarding and proper management of client digital assets held by AIs.

For the purposes of the guidance, “digital assets” are defined as assets that primarily rely on cryptography and distributed ledger technology, and include virtual assets as defined in section 53ZRA of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, as well as tokenized securities and other tokenized assets.

Taking inspiration from international standards and practices, the HKMA's guidance establishes expected standards which allow AIs the flexibility to implement operational arrangements based on the nature, features, and risks associated with relevant digital assets under their custody. These standards apply to AIs regardless of whether client digital assets are acquired through intermediation in virtual asset (VA)-related activities, the distribution of tokenized products, or the provision of standalone custodial services. The expected standards cover the following key areas:-

(i) governance and risk management;
(ii) segregation of client digital assets;
(iii) safeguarding of client digital assets;
(iv) delegation and outsourcing;
(v) disclosure;
(vi) anti-money laundering and counter-financing of terrorism; and
(vii) ongoing monitoring.

AIs and their subsidiaries planning to offer digital asset custodial services must engage with the HKMA in advance and demonstrate compliance with the expected standards. Existing AIs or relevant subsidiaries already involved in such activities should also review their systems and controls and inform the HKMA of their compliance by 20 August 2024.

For more detailed information, please refer to the relevant HKMA circular by clicking here.

# Hong Kong Singapore Fintech Legal Guide

## Simon Deane and Phyllis Leung

The Hong Kong Singapore Fintech Legal Guide jointly published by Deacons and Rajah & Tann provides a side-by-side comparative overview of the laws and regulations which fintech companies should consider when setting up a business in Hong Kong and Singapore, covering areas from the regulatory landscape, marketing and selling digital products, data protection and privacy, intellectual property, anti-money laundering, setting up companies and utilising human talent.

This guide captures the most recent developments in the legal framework and regulatory landscape within the fintech industry in Hong Kong and Singapore and provides valuable insights and guidance for businesses seeking to navigate the challenges within this rapidly evolving sector.

Please click here to read the guide.

## Want to know more?


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