

Press release

Release of consultation conclusion on protected arrangements regulation

Thursday, April 6, 2017

The Government and the financial regulators, namely the Hong Kong Monetary Authority (HKMA), the Insurance Authority (IA) and the Securities and Futures Commission (SFC), today (April 6) released a consultation conclusion on the public consultation relating to the protected arrangements regulation (the Regulation) to be made as subsidiary legislation under section 75 of the Financial Institutions (Resolution) Ordinance (Cap. 628). The consultation conclusion sets out the authorities' response to the comments received and the proposals for taking forward the Regulation.

"We are pleased to note that the respondents generally agreed with the approach to the Regulation proposed in the Consultation Paper whilst providing constructive and technical comments. We have carefully reviewed respondents' suggestions and adopted them as appropriate in refining the Regulation to enhance its efficacy," a Government spokesman said.

At the end of the consultation period (November 22, 2016, to January 21, 2017), a total of 11 submissions had been received from industry associations, professional bodies and financial market infrastructures.

The Regulation imposes appropriate constraints on the resolution authorities (RAs) under the Ordinance, namely the Monetary Authority, the IA and the SFC, in the event that it is necessary to exercise their resolution powers to manage the orderly failure of a non-viable systemically important FI in Hong Kong. These constraints are designed to safeguard the economic effect of a set of financial arrangements, defined as "protected arrangements" under section 74 of the Ordinance, that are crucial to the daily functioning of financial markets. Before the Ordinance commences operation, it is considered prudent to have the Regulation in place in order to provide legal certainty on the treatment of the "protected arrangements" if an RA were to exercise its resolution powers.

The current plan is to table the Regulation before the Legislative Council in

the second quarter of 2017, with a view to bringing the Regulation and the Ordinance into operation shortly after the completion of the negative vetting procedure within 2017.

The consultation conclusion has been uploaded to the websites of the Financial Services Branch of the Financial Services and the Treasury Bureau (www.fstb.gov.hk/fsb/ppr/consult/doc/consult_conclu_par_e.pdf), the HKMA (www.hkma.gov.hk), the IA (www.oci.gov.hk) and the SFC (www.sfc.hk).