

Consultation conclusion on rules on contractual stays on termination rights in financial contracts for authorised institutions

The following is issued on behalf of the Hong Kong Monetary Authority:

The Hong Kong Monetary Authority (HKMA) has today (December 31) released the consultation conclusion on the public consultation relating to rules on contractual stays on termination rights in financial contracts for authorised institutions (Stay Rules) proposed to be made as subsidiary legislation pursuant to section 92 of the Financial Institutions (Resolution) Ordinance (Cap. 628) (FIRO).

The Stay Rules require authorised institutions incorporated in Hong Kong and certain of their group companies to include an appropriate provision in certain non-Hong Kong law governed financial contracts to the effect that the parties to the contracts agree to be bound by a temporary suspension of termination rights that may be imposed by the Monetary Authority as a resolution authority under section 90 of the FIRO. The Stay Rules are designed to address the cross-border risks to orderly resolution arising from the early termination of financial contracts governed by non-Hong Kong law, in line with the contractual approach to giving effect to cross-border resolution actions advocated by the Financial Stability Board.

A total of 14 submissions were received from industry associations, professional associations, banks, an accounting firm and law firms. All respondents indicated broad support for the proposed approach to the Stay Rules and provided constructive comments on the proposals set out in the consultation paper. Some sought additional clarity on the details of the proposals in the consultation paper.

Having carefully reviewed all comments, the HKMA sets out its responses in the consultation conclusion, and has adopted appropriate refinements in developing the draft Stay Rules. The draft text of the Stay Rules is issued at the same time for industry consultation.

It is intended to introduce the Stay Rules into the Legislative Council for negative vetting within the current legislative year of 2020-2021, with a view to bringing the Stay Rules into operation shortly after the completion of the vetting process in 2021.

The consultation conclusion is available on the HKMA's website (www.hkma.gov.hk/eng/regulatory-resources/consultations/closed/).