

Guidance Note on Compliance with the Deposit Protection Scheme (Representation on Scheme Membership and Protection of Financial Products under Scheme) Rules (Cap. 581A)

Background

Established under the Deposit Protection Scheme (DPS) Ordinance (Cap. 581), the Hong Kong Deposit Protection Board (the Board) is charged with the responsibility for establishing and maintaining the DPS in Hong Kong. In accordance with section 51 of the DPS Ordinance, the Board has issued the DPS (Representation on Scheme Membership and Protection of Financial Products under Scheme) Rules (the Rules) to govern the representations made by members of the DPS (Scheme members) regarding their membership and the protection status of their financial products. This set of questions and answers serves to provide guidance on operational issues in relation to achieving compliance with the Rules.

(I) Display of Membership Sign¹ at Relevant Place of Business (Ref: Section 3)

- 1. A Scheme member should display a Membership Sign at each of its “relevant places of business”. Should a Membership Sign be displayed at a Scheme member’s place of business where no deposits are taken by the Scheme member (e.g. a loan centre or a back office without customer access)?**

Any physical presence of a Scheme member in Hong Kong that meets the definition of “relevant place of business” is subject to the requirement of displaying the Membership Sign. The Membership Sign should only be displayed at the “relevant place of business” to which customers ordinarily have physical access for carrying out banking transactions (which include taking deposits from the public and paying or collecting cheques of customers).

- 2. Exactly where should a Scheme member display the Membership Sign at its “relevant place of business”?**

There is no legal requirement as to where exactly the Membership Sign should be displayed. However, a Scheme member must display the Membership Sign in a manner that is reasonably visible to customers entering its place of business. A Scheme member will be regarded as compliant with this requirement if it posts the Membership Sign at each customer entrance to the relevant place of business. Displaying the Membership Sign at areas accessible only by staff is not sufficient to meet this requirement.

- 3. Can a Scheme member display a Membership Sign at its automated teller machines (ATMs)?**

A Scheme member should not display a Membership Sign at its ATMs as well as its premises which are solely used for housing ATMs at any times, including the ATM area which is separated from the relevant place of business outside banking hours. This is

¹ Membership Sign refers to the sign set out in Part 1 of the Schedule to the Rules.

to avoid any possible confusion to customers as some Scheme members may share their ATMs with non-bank financial institutions and some ATM operators are not Scheme members.

4. Will the Board provide any specifications on the Membership Sign? Is there any requirement on Scheme members to print or reproduce the Membership Sign on specified types of materials?

The Board has provided specifications on the Membership Sign in its DPS Membership Sign Guideline. There is no restriction on the types of material to be used for printing or reproducing the Membership Sign. Printing the Membership Sign on plastic labels and posting the labels on glasses or doors, or presenting it on acrylic stands, are all considered acceptable by the Board. Scheme members should also have procedures to ensure that any impaired or faded Membership Signs, for example, due to wearing and tearing, are duly replaced.

5. Should a Scheme member incorporated outside Hong Kong specify in the Membership Sign that only the Hong Kong branch of the Scheme member is a member of the DPS?

No. A Scheme member should insert its registered name into the specified field in the Membership Sign. For Scheme members incorporated outside Hong Kong, it should not make reference to the “Hong Kong branch” in the Membership Sign.

(II) *Display of Simplified Membership Sign² at Electronic Banking Platform with effect from 1 January 2025 (Ref: Section 3A)*

6. Can the Board provide guidance on how the Simplified Membership Sign should be displayed so that it is reasonably visible to any person accessing the electronic banking platform as required under section 3A(1)(b)?

The sign is considered reasonably visible to any person accessing a platform if it is displayed on either the home page (i.e. the front page) or the page immediately after customer login, subject to the minimum size requirement set out in the DPS Membership Sign Guideline.

Each individual platform is considered independently. This means that a Scheme member can choose to display it on the home page of a platform (e.g. website) and on the page following customer login on another platform (e.g. mobile app).

Apart from the home page and the page immediately after customer login, a Scheme member may also display the Simplified Membership Sign on other pages of its electronic banking platform(s) on a need basis.

7. Is the requirement under section 3A(1) applicable to apps related to Stored Value Facility (SVF), credit cards, and investment products, as well as social media platforms?

² Simplified Membership Sign refers to the sign set out in Part 2 of the Schedule to the Rules.

The requirement is applicable to a Scheme member's electronic banking platforms (e.g. websites, mobile apps) which provide information about the Scheme member's deposit-taking business in Hong Kong.

Electronic banking platforms are not intended to cover:

- (i) mobile apps or other platforms not related to deposit-taking business of Scheme members, e.g. SVF, credit cards, securities trading, etc;
- (ii) social media platforms operated by Scheme members, e.g. WeChat, Facebook, and Instagram; and
- (iii) Scheme members' ATMs and self-service banking machines such as cash and cheque deposit machines,

hence Scheme members should not display the Simplified Membership Sign at these platforms.

8. If a Scheme member shares an electronic banking platform with its head office, branches and/or affiliates, is the Scheme member required to display the Simplified Membership Sign at the platform?

For the purposes of section 3A(2)(b), the head office, branches and affiliates of a Scheme member incorporated outside Hong Kong are regarded as a person who is not a Scheme member. Therefore, if a Scheme member incorporated outside Hong Kong shares the home page of an electronic banking platform with any of them, and the platform does not contain any information to the effect that the Scheme member is a member of the DPS or a financial product offered by the Scheme member is a protected deposit, the Scheme member is not required to display the Simplified Membership Sign at the relevant platform. Otherwise, the Scheme member should still display the Simplified Membership Sign as required under section 3A(1). In particular, the Simplified Membership Sign should be displayed in such a manner that any person accessing the platform should reasonably be aware that the Scheme member, but not any other person, is a member of the DPS.

9. Is there any more specific guidance on the display requirements of the Simplified Membership Sign (e.g. the minimum size, and the location)?

The Simplified Membership Sign should be displayed in compliance with the specifications and requirements set out in the DPS Membership Sign Guideline. In general, Scheme members have the discretion to decide on the exact size of the Simplified Membership Sign (subject to the minimum requirement set out in the DPS Membership Sign Guideline) and its exact location on the relevant page(s), i.e. the home page or the page immediately after customer login, provided that the requirements in section 3A(4) are satisfied.

10. Is there any more specific guidance on the hyperlink of the Simplified Membership Sign?

Scheme members may choose to embed in the Simplified Membership Sign a hyperlink to the home page of the Board's website (www.dps.org.hk), or to the DPS information

leaflet which is updated by the Board from time to time (https://www.dps.org.hk/en/download/Leaflet_Bilingual.pdf). In the latter case, the Scheme member may also opt to download the DPS information leaflet and house it on the Scheme member's own website, but the Scheme member should ensure that the leaflet housed on the Scheme member's own website is always the most up-to-date version.

11. Can a Scheme member use the Simplified Membership Sign for purposes other than displaying at electronic banking platforms?

The Simplified Membership Sign is designed solely for display on Scheme members' electronic banking platforms, as the Board understands that the space on websites and mobile apps are generally more limited to show the Membership Sign (i.e. the full version) with reasonable clarity. Scheme members should continue to use the Membership Sign for all other purposes, e.g. displaying at a relevant place of business or on a promotional material.

12. Can a Scheme member display the Simplified Membership Sign at its electronic banking platforms before 1 January 2025?

If a Scheme member has been displaying the Membership Sign (i.e. the full version) at its electronic banking platforms before 1 October 2024, no matter on a voluntary basis or as required under section 3(2)³, the Scheme member must remove the outdated Membership Sign by 1 October 2024, and may opt to display the Simplified Membership Sign starting from 1 October 2024. The Scheme member may also continue to display the full version of the Membership Sign (but with updated protection limit of HK\$800,000) on 1 October 2024. However, it must be replaced with the Simplified Membership Sign starting from 1 January 2025.

(III) *Membership Representations in Advertisements (Ref: Section 4)*

13. What does “financial product” in the Rules refer to?

The term “financial product” refers generally to any products offered in the financial market, including banking, investment, capital and insurance products.

14. What if an advertisement covers both protected and non-protected financial products and there is insufficient space to cover the protection status of all the products in one single advertisement?

Scheme members have the discretion to decide whether they want to refer to their membership or the protection status of their protected deposits in their advertisements. However, if a Scheme member chooses to refer to its membership or the protection status of its protected deposit in an advertisement relating to a non-protected deposit or financial product, the Scheme member should make it clear that the non-protected deposit or financial product is not protected by the DPS in order to avoid misleading its customers.

³ Section 3(2) of the Rules will be repealed and replaced by section 3A with effect from 1 January 2025.

(IV) Negative Disclosure as to Financial Products (Ref: Sections 6A – 6D and 7B)

15. How can a Scheme member determine whether a financial product is a structured deposit and is thus excluded from deposit protection?

Whether a financial product falls within the meaning of “structured deposit” in Schedule 1 to the DPS Ordinance needs to be determined on a case by case basis having regard to the terms and conditions of the product. In case of doubt, Scheme members should seek advice from their legal counsel. Nevertheless, the following table is produced to facilitate Scheme members to understand the definition of structured deposit in Schedule 1 to the DPS Ordinance.

Name of Financial Product	Key Features	Is it a structured deposit?
Currency-linked products	<ul style="list-style-type: none">• A loan of money of which the principal may be repaid in another currency to be converted, at an exchange rate specified at the time when the loan of money was made, from the currency in which that loan was made	Yes (see section 2A(a)(i) of Schedule 1)
Equity-linked products	<ul style="list-style-type: none">• A loan of money of which the principal may be repaid in the form of shares or other securities	Yes (see section 2A(a)(ii) of Schedule 1)
Range accruals	<ul style="list-style-type: none">• A loan of money of which the principal and/or the interest payable depends on whether a specified interest rate is above, below or outside a specified level (e.g. whether HIBOR is higher than 5%); or is within or outside a specified range (e.g. whether HIBOR moves within the range of 3% and 5%)	Yes (see section 2A(c)(iii) and section 2A(d)(iii) of Schedule 1)
Inverse floaters	<ul style="list-style-type: none">• A loan of money of which the principal and/or the interest payable depends on the difference calculated by subtracting a fixed percentage from a specified interest (e.g. 7% minus HIBOR)	Yes (see section 2A(c)(iv) and section 2A(d)(iv) of Schedule 1)
Deposits with step-up (or step-down) interest rates	<ul style="list-style-type: none">• An ordinary deposit except that the interest rates which are fixed at the time the deposit is made increase (or decrease) over the term of the deposit (e.g. 3% in the first year; 4% in the second year and 5% in the third year)	No
Deposits with gifts-in-kind	<ul style="list-style-type: none">• An ordinary deposit except that gifts-in-kind are given to the depositor	No
Deposits with early redemption option	<ul style="list-style-type: none">• An ordinary deposit except that the bank may terminate the deposit prior to its original term	No

16. Is the disclosure requirement applicable to credit balance in credit card accounts?

Credit balance in credit card accounts does not constitute a deposit and therefore is not protected by the DPS. As such, Scheme members should not refer the credit balance in credit card accounts as a “deposit”. Otherwise, a negative disclosure and a customer acknowledgement will be required.

17. Is the disclosure requirement applicable to safe “deposit” box?

No, as safe deposit box is not a financial product.

18. If a Scheme member distributes non-protected financial products issued by third parties (e.g. its overseas affiliates), is it required to make negative disclosure regarding those products?

A disclosure and a customer acknowledgement are required only if the non-protected financial product offered by a Scheme member has been described as a “deposit” in any advertisements, promotional materials or documents, whether published by electronic, telecommunications or other means. If this is the case, Scheme members should make a negative disclosure and obtain an acknowledgement from the customer for a financial product distributed by the Scheme member, regardless of whether it is issued by the Scheme member. For instance, where a Scheme member distributes a non-protected financial product issued by a third party and the financial product has been described as a “deposit”, e.g. a bearer certificate of deposit, the Scheme member is required to make a negative disclosure and seek an acknowledgement from the customer before each transaction unless the Scheme member adopts the streamlined negative disclosure approach under section 6C or 6CA of the Rules. Another example is where a Scheme member (whether or not it is incorporated in Hong Kong) takes a deposit for an overseas branch, i.e. an offshore deposit, the Scheme member is required to make a negative disclosure and obtain an acknowledgement from the customer.

19. If a callable deposit has a term to maturity of 6 years but the Scheme member has an option to terminate the deposit contract upon the expiry of the first 3 years, is such a deposit excluded from deposit protection? What if a deposit has a term to maturity of 3 years but the Scheme member or the depositor has an option to extend the term for another 3 years (i.e. 6 years in total), is such a deposit also excluded from deposit protection?

Section 1(a) of Schedule 1 to the DPS Ordinance specifies that a term deposit where the current term agreed to by the depositor at the most recent time it was negotiated exceeds 5 years is not a protected deposit. If the original term of the deposit is 6 years, it will not be protected by the DPS although there is an option for the Scheme member to shorten the maturity. If a deposit is composed of two tenures, whether it is regarded as a term deposit with a tenure for more than 5 years (and thus be excluded from DPS protection) very much depends on how the deposit contract is constructed. For example, if the deposit contract specifies that the term is 3 years but the depositor has the option to renew the contract for another 3 years upon the expiry of the first tenure, it is likely to be protected by the DPS.

20. A Scheme member is not required to make a negative disclosure before an investment in a non-protected financial product is automatically rolled over. Are there any qualifications on the extent and manner of the rollovers? Will this exemption apply to manual rollovers and partial rollovers (e.g. part of the interest/principal being withdrawn)? Is there any follow-up action to be taken by Scheme members after the rollover?

A negative disclosure is not required before an automatic rollover of a non-protected

financial product if the rollover is effected without further instruction from the customer concerned. Scheme members should strictly follow the wording set out in section 6B(1)(b)(i) of the Rules, which requires Scheme members to make it clear that “the financial product is not a protected deposit and is not protected by the DPS, and will remain so in the case of any automatic re-investment of that investment”. The rollover can be effected manually or automatically by computer systems, and may involve the full amount or part of the amount of the principal, interest and/or any premium.

While the customer concerned has previously been notified about the non-protection of the financial product and its rollovers, Scheme members should take further steps to remind the customer in writing⁴ about the non-protection status shortly before or within 7 business days after each rollover transaction takes place. The reminder can take the form of a separate notice or be included in other documentation such as confirmation slips. Scheme members should have in place mechanisms for issuance of these written disclosures.

21. Negative disclosures to institutional customers (defined as non-natural persons) may be made on an account basis, and supplemented by an annual notice. Are sole proprietorships, partnerships and unincorporated associations regarded as institutional customers?

Sole proprietorships, partnerships and unincorporated associations are deemed as institutional customers for the purposes of making negative disclosures. Scheme members may make negative disclosures and obtain acknowledgements from customers on an account basis provided that an annual notice is issued to the customers in respect of the non-protection status of the financial product.

22. Who would be regarded as a “private banking customer” for the purposes of section 6CA?

Private banking customers refer to the customers of the private banking business of Scheme members in Hong Kong, i.e. those operating as private banks or having dedicated private banking units. In practice, the Board understands that Scheme members generally follow the definition of “private banking customer” set out in the relevant circulars issued by the Hong Kong Monetary Authority from time to time.

23. As “private banking customer” refers to an individual in section 6CA, are corporate private banking customers (e.g. investment vehicles held by high net worth individuals) eligible for the streamlined approach⁵?

For corporate customers of the private banking business, Scheme members can adopt the streamlined negative disclosure approach under the existing section 6C of the Rules.

24. Does the one-off negative disclosure under the streamlined approach apply to the same asset type or the same product (with specific terms and rate)?

⁴ For the purposes of the Rules and this Guidance Note, where the requirement sets out that the information to be given or obtained should be “in writing”, such information can be given or obtained through electronic means only if the applicable requirements in the Electronic Transactions Ordinance (Cap. 553) are met.

⁵ “Streamlined approach” in this guidance note refers to the approach set out in sections 6B, 6C, 6CA, and 6D.

Scheme members may treat deposit products of the same type / nature as the same product in their negative disclosure under the streamlined approach, even though the individual products may entail different terms and conditions. The major product types are expected to include offshore deposits, time deposits with tenor longer than 5 years, structured deposits, etc. Therefore, Scheme members are reminded to refer to the relevant product type rather than specific transaction in its negative disclosure statement to customers, so that the statement can still cover future transactions of same product type. The same applies to annual reminders to customers. The description about the product types in the annual reminders should tally with that provided in the negative disclosure.

- 25. Some customers place money with Scheme members for payment purposes rather than as a deposit (e.g. in some mortgage-linked deposit accounts, money is placed by customers for the purpose of repayment of mortgage loans). Can the disclosures and acknowledgements be made on an account basis?**

Scheme members may make negative disclosures and obtain acknowledgements from customers on an account basis provided that an annual notice is issued to the customers in respect of the non-protection status of the financial product. For the avoidance of doubt, no negative disclosure is required for money received by Scheme members for payment purposes but has not been referred to as a deposit.

- 26. Is there any recommended wording for the negative disclosure and acknowledgement for reference by Scheme members?**

Please refer to the **Annex** for the suggested wording.

- 27. Can the disclosure be incorporated into the terms and conditions of the relevant non-protected financial products?**

So far as the disclosure statement is brought to the attention of the customer and the customer's acknowledgement is obtained, the Scheme member has the discretion to determine in what document the disclosure statement is contained. However, Scheme members should observe the requirements in respect of the prominence of the disclosure statement as specified in the Rules.

- 28. Can the Scheme members incorporate the annual reminder of the negative disclosure into general dealing terms with customers and dispatch them along with other annual mass mailing materials to customers?**

Provided that the reminder statement is clearly legible enough to be brought to the attention of the customers, Scheme members have the discretion to determine in what document the statement should be contained. Scheme members should ensure that there is proper record for the annual reminder so that it can be shown to the Board or other regulators upon request.

- 29. Do individual Scheme members have discretion to decide how a customer acknowledgement is to be obtained, be it in written form, or electronic form (such as electronic acceptance in Internet), or through telephone?**

In general, the negative disclosure together with the acknowledgement should be made

in writing⁴. However, if the offer is made through telephone, the Internet or electronic mail, the negative disclosure and the acknowledgement may be made through the same means in which the offer is made. Nevertheless, where the negative disclosure and the corresponding acknowledgement is made through telephone, Scheme members should take further steps to remind the customer in writing⁴ about the non-protection status shortly before or within 7 business days after the transaction takes place. The reminder can take the form of a separate notice or be included in other documentation such as confirmation slips. Scheme members should have in place mechanisms for issuance of these written disclosures.

30. For certain investment transactions, Scheme members will request clients to confirm a deal after execution. Can the disclosure be incorporated into the deal confirmation?

The acknowledgement for a negative disclosure is required to be obtained before the customer invests in the financial product. Hence, it is not acceptable for a Scheme member to make the negative disclosure and obtain the acknowledgement in the deal confirmation which is issued after the investment transaction is completed.

31. If a customer refuses to give an acknowledgement to a Scheme member's negative disclosure statement, what should the Scheme member do? Is proper record keeping of the customer's refusal to give an acknowledgement sufficient?

If a customer refuses to give an acknowledgement that he/she has received and understands the negative disclosure on a non-protected financial product, the Scheme member should refuse opening the account or completing the transaction with the customer.

32. Is it necessary to alert customers that the negative disclosure and acknowledgement of the negative disclosure would be changed to one-off if the streamlined approach is adopted?

As the streamlined negative disclosure arrangement is not mandatory, customers may not know whether their banks have chosen to continue to adopt the existing transaction-based approach or opt for the streamlined approach. If the streamlined approach is adopted, the Scheme member should draw its customers' attention that the negative disclosure will be changed to one-off, supplemented by an annual reminder.

33. How long should Scheme members keep the records of customer acknowledgement?

Scheme members should follow their own existing record keeping policies which should be consistent with all existing laws, regulations and guidelines. Having said that, a Scheme member should ensure that the records are properly documented and accessible to the Scheme member, the Board and other regulatory bodies for assessment on the level of compliance with the Rules.

34. If a Scheme member issues or distributes a SVF, is it required to make negative disclosure regarding the monies collected from customers on the SVF (SVF

monies⁶)?

A Scheme member should not refer the SVF or SVF monies as a “deposit”. If not, there is a possibility that the Scheme member concerned would have breached section 6A(3) of the Rules which requires a Scheme member to make negative disclosure of the non-protection status of the SVF or SVF monies and obtain acknowledgement from the customer on the negative disclosure before each transaction.

Furthermore, in order to avoid any confusion among the public that SVF monies are protected by the DPS, a Scheme member which issues or distributes a SVF should take steps to inform its customers that SVF monies are not protected by the DPS, e.g. by incorporating the disclosure in the relevant documentation of the SVF.

(V) Descriptions or Representations of Financial Products as Structured Deposits (Ref: Section 6E)

- 35. Starting from 1 July 2011, a Scheme member may not describe any financial product offered by a Scheme member as a “structured deposit” if it does not fall within the definition of “structured deposit” in section 2A of Schedule 1 to the DPS Ordinance (the legal definition). Does this affect the reference to a financial product which is transacted before 1 July 2011?**

The requirement on description or representation of financial products as a “structured deposit” will not apply to transactions done before 1 July 2011. Therefore, Scheme members may continue to describe a transaction in a financial product that does not fall within the legal definition of “structured deposit” as a “structured deposit” on or after 1 July 2011 if the transaction is done before 1 July 2011. However, for financial products launched before 1 July 2011, any new tranches offered after 1 July 2011 should not be referred to as a structured deposit if the products do not fall within the definition of a “structured deposit”.

(VI) Positive Disclosure as to Deposits Qualified for Protection by the Scheme (Ref: Sections 6H – 6K and 7B)

- 36. How specific should the positive disclosure made to the holder of an existing deposit qualified for protection be? Is a general notice to the depositor enlisting the types of deposits qualified for protection sufficient?**

The depositor receiving the disclosure must be able to associate, based on the information in the disclosure, that the deposit is a deposit qualified for protection by the DPS. For example, a Scheme member may specify that the deposit is qualified for protection, or identify the type of deposit to which the deposit belongs and mention that the type of deposit is qualified for protection in relevant documentation, e.g. account opening documents or deposit confirmation advice. A Scheme member may also make a disclosure by showing all types of deposit qualified for protection, provided that the depositor can associate the deposit with the types of deposit shown in the disclosure.

⁶ Refer to SVF deposits and float, the definitions of which are set out in section 2 of the Payment Systems and Facilities Ordinance (Cap. 584).

The level of details required to achieve the effect may vary with the coverage of the disclosure and the product classification system of Scheme members.

37. Are Scheme members required to make a positive disclosure before the deposit transaction? Is customer acknowledgement required for a positive disclosure?

Scheme members can make a positive disclosure to a depositor before, or within 30 days beginning on the date on which the depositor opens the account or places the deposit. There are however three circumstances under which Scheme members may be exempted from making a positive disclosure, including (i) automatic rollovers; (ii) deposits held under an account in respect of which a positive disclosure has been made; and (iii) deposits held for the account of the Exchange Fund or held by excluded persons. No customer acknowledgement is required for positive disclosures.

38. Scheme members may have practical difficulties in ascertaining whether a depositor is an excluded person as set out in the DPS Ordinance when making a positive disclosure to the depositor. Is making a positive disclosure to an excluded person acceptable notwithstanding that the deposits held by them are not protected? Can Scheme members choose to refrain from making a positive disclosure to excluded persons known to them (e.g. multilateral development banks, authorized institutions, and foreign banks)?

Scheme members are not required to find out whether a depositor is an excluded person for the purpose of making positive disclosures. However, if a depositor is known to be an excluded person to a Scheme member, the Scheme member may choose not to make a positive disclosure to the depositor.

Excluded persons in the DPS Ordinance generally refer to banks and a small group of connected parties. The group is negligible in number relative to the depositor population and they should be well aware of their non-protected status under the DPS. If a Scheme member considers it necessary, it may, on top of the requirements in the Rules, qualify the positive disclosures by making a reference to the excluded persons, for example, if the depositor is an individual, to qualify that deposits held by and for excluded persons such as directors and the senior management of the Scheme member and of its related companies are not protected; if the depositor is an institution, that deposits held by and for excluded persons such as banks and related companies of the Scheme member are not protected.

39. Is there any recommended wording for the positive disclosure for reference by Scheme members?

Please refer to the **Annex** for the suggested wording.

40. There are certain requirements under section 7B(1) of the Rules on how a relevant negative disclosure notice should be presented in a statement or document. Are these requirements also applicable to positive disclosure?

A negative or positive disclosure notice covered under section 7B(1) of the Rules must be in writing⁴ and printed so as to be clearly legible. For negative disclosures, if the contents of the document containing a disclosure are divided into chapters, parts,

sections or other headings, the disclosure must be shown in the statement or document under a separate chapter, part, section or heading on the protection status of the deposit or the financial product. In addition, that separate chapter, part, section or heading and (if it is numbered) its number must be indicated clearly in the index (if any) of the statement or document. For the avoidance of doubt, the requirements on putting disclosures into a separate chapter, section or heading and showing its number in the index are not applicable to positive disclosures.

41. Does the deposit protection under the DPS also apply to tokenised deposits?

The prevailing requirements under the Rules in principle also apply to tokenised deposits where applicable, as long as the nature of tokenised deposits is akin to conventional deposits.

(VII) Disclosure when Deposits Are No Longer Protected by DPS (Ref: Section 7)

42. Under what situations will section 7 of the Rules trigger the requirement of a disclosure be made by a Scheme member?

A Scheme member should make a negative disclosure to the customer and obtain his/her acknowledgement if there is (a) a variation to any term or condition under which the deposit is maintained; or (b) a variation to any right or obligation of the person or Scheme member in relation to the deposit in connection with the provision of a service by the Scheme member to the person to the effect that the deposit is no longer a deposit qualified for protection.

43. Will this requirement be applicable to situations where a depositor becomes an excluded person under the DPS Ordinance?

No.

(VIII) Requests for Information on Protection Status of Financial Products (Ref: Section 7A)

44. Are the means and time of response specified in the requirements applicable to requests for information on protection status only? Are Scheme members required to identify deposits held by excluded persons when responding to customers' enquiries on the protection status of a product?

The means and time of response specified in the requirements are only applicable to enquiries on whether a financial product is protected by the DPS and are not applicable to other DPS-related enquiries, e.g. whether a person is an excluded person (and hence his/her deposits will be excluded from protection) or the amount of compensation payment to which a customer is entitled.

45. Is there any recommended wording for responding to customer enquiries on protection status of a financial product for reference by Scheme members?

Please refer to the **Annex** for the suggested wording.

(IX) Others

- 46. Are there any implications on the requirements under the Rules given the change in the Chinese translation of the term “representation” in the Rules from “申述” to “表述” with effect from 1 January 2025?**

The term “表述” is considered more appropriate to reflect its meaning in the Rules. The revised translation does not change the substance of the relevant requirements.

- 47. There seems to be no legal sanctions to the breaching of any of the requirements on making positive disclosures, descriptions or representations of a financial product as a “structured deposit”, and responding to enquiries on the protection status of financial products. Is this the case?**

While no legal sanction will be imposed on the breaching of the representation requirements as stated in the question, failure to comply with any requirements under the DPS Ordinance is a stated ground for revocation of the banking licence under section 21 of Schedule 8 to the Banking Ordinance.

Suggested Wording for Disclosure and Acknowledgement

Section No. of Rules	Medium	Suggested Wording
4	Advertisement and promotional material	<p>[Name of Scheme member] is a member of the Deposit Protection Scheme in Hong Kong. Eligible deposits taken by this Bank are protected by the Scheme up to a limit of HK\$800,000 per depositor.</p> <p>[計劃成員名稱] 是香港的存款保障計劃的成員。本銀行接受的合資格存款受存保計劃保障，最高保障額為每名存款人 HK\$800,000。</p>
6A, 7	Negative disclosure to customers	<p>[The specified financial product] is not a protected deposit and is not protected by the Deposit Protection Scheme in Hong Kong.</p> <p>[指定金融產品]並非受保障存款，不受香港的存款保障計劃保障。</p>
6A, 7	Acknowledgement on negative disclosure from customers	<p>I acknowledge that I have received the notice and understand that [the specified financial product] is not a protected deposit and is not protected by the Deposit Protection Scheme in Hong Kong.</p> <p>本人確認已收到通知，並明白[指定金融產品]並非受保障存款，不受香港的存款保障計劃保障。</p>
6H	Positive disclosure to depositors	<p>[The specified deposit product] is a deposit qualified for protection by the Deposit Protection Scheme in Hong Kong.</p> <p>[指定存款產品]是符合香港的存款保障計劃保障資格的存款。</p>
7A	Reply to depositors	<p><i>Where the deposit product is a deposit qualified for protection: –</i></p> <p>[The specified deposit product] is a deposit qualified for protection by the Deposit Protection Scheme in Hong Kong.</p> <p>[指定存款產品]是符合香港的存款保障計劃保障資格的存款。</p> <p><i>Where the financial product is not a protected deposit: –</i></p>

Section No. of Rules	Medium	Suggested Wording
		<p>[The specified financial product] is not a protected deposit and is not protected by the Deposit Protection Scheme in Hong Kong.</p> <p>[指定金融產品]並非受保障存款，不受香港的存款保障計劃保障。</p>