



**PING AN ONECONNECT BANK (HONG KONG) LIMITED**  
**(平安壹賬通銀行(香港)有限公司)**

**Articles of Association**

Incorporated on the 7th day of December, 2018  
(as adopted by Special Resolution passed on 21 April 2020)

**THE COMPANIES ORDINANCE (CHAPTER 622)**

**Private Company Limited by Shares**

**ARTICLES OF ASSOCIATION  
(as adopted by Special Resolution passed on 21 April 2020)**

**OF**

Ping An OneConnect Bank (Hong Kong) Limited

平安壹賬通銀行(香港)有限公司

**Part A Mandatory Articles**

**Company Name**

The name of the Bank is

Ping An OneConnect Bank (Hong Kong) Limited

平安壹賬通銀行(香港)有限公司

**Members' Liabilities**

The liability of the Members is limited.

**Liabilities or Contributions of Members**

The liability of the Members is limited to any amount unpaid on the shares held by the Members.

**Share Capital and Initial Shareholdings (on the Bank's formation)**

The total number of shares that the Bank proposes to issue

1

The total amount of share capital to be subscribed by the Bank's founder Members

USD1.00

(i) The amount to be paid up or to be regarded as paid up

USD1.00

(ii) The amount to remain unpaid or to be regarded as remaining unpaid

USD0

**Class of Shares**

Ordinary

The total number of shares in this class that the Bank proposes to issue

1

The total amount of share capital in this class to be subscribed by the Bank's founder Members

USD1.00

(i) The amount to be paid up or to be regarded as paid up

USD1.00

(ii) The amount to remain unpaid or to be regarded as remaining unpaid

USD0

I/WE, the undersigned, wish to form a company and wish to adopt the Articles of Association as attached, and I/we respectively agree to subscribe for the amount of share capital of the Bank and to take the number of shares in the Bank set opposite my/our respective name(s).

Name(s), Address(s) and Description of Founder Member(s)	Number of Share(s) and Total Amount of Share Capital
<p>For and on behalf of Jin Yi Rong Limited 金億融有限公司</p> <p>LI Jie (signed)</p> <p style="text-align: right;"><u>Authorised Signatory</u></p> <p>Address: 5301, 53/F., The Center, 99 Queen's Road Central, Hong Kong Occupation: Corporation</p>	<p style="text-align: center;">1</p> <p style="text-align: center;">Ordinary share</p> <p style="text-align: center;">USD1.00</p>
<b>Total:</b>	<p style="text-align: center;">1</p> <p style="text-align: center;">Ordinary share</p> <p style="text-align: center;">USD1.00</p>

Dated the 3<sup>rd</sup> day of December 2018

## **Articles for Private Company Limited by Shares**

### **Contents**

#### **Part B Other Articles**

##### **Part 1 Preliminary**

1. Application of the Model Articles
2. Interpretation

##### **Part 2 Private Company**

3. Bank is private company
4. The Office

##### **Part 3 Directors and Secretary**

###### **Division 1 - Directors' Powers and Responsibilities**

5. Number of Directors
6. Shareholding in the Bank
7. Directors' general authority
8. Members' reserve power
9. Directors may delegate
10. Committees

###### **Division 2 - Decision-taking by Directors**

11. Managing Directors and other appointments
12. Directors to take decision collectively
13. Unanimous decisions
14. Calling Directors' meetings
15. Participation in Directors' meetings
16. Quorum for Directors' meetings
17. Meetings if total number of Directors less than quorum

18. Chairing of Directors' meetings
19. Chairperson's casting vote at Directors' meetings
20. Alternates voting at Directors' meetings
21. Resolution in writing
22. Conflicts of interest
23. Supplementary provisions as to conflicts of interest
24. Validity of acts of meeting of Directors
25. Record of decisions to be kept
26. Written record of decision of sole Director
27. Directors' discretion to make further rules

#### **Division 3 - Appointment of Directors**

28. Appointment of Directors
29. Composite resolution
30. Termination of Director's appointment
31. Directors' remuneration
32. Directors' expenses

#### **Division 4 - Reserve Directors**

33. Nomination of reserve Directors

#### **Division 5 - Alternate Directors**

34. Appointment and removal of Alternates
35. Rights and responsibilities of Alternate Directors
36. Termination of Alternate directorship

#### **Division 6 - Directors' Indemnity and Insurance**

37. Indemnity
38. Insurance

#### **Division 7 - Secretary**

39. Appointment and removal of Secretary

**Part 4**  
**Decision-taking by Members**

**Division 1 - Organisation of General Meetings**

- 40. General meetings
- 41. Notice of general meetings
- 42. Persons entitled to receive notice of general meetings
- 43. Accidental omission to give notice of general meetings
- 44. Attendance and speaking at general meetings
- 45. Quorum for general meetings
- 46. Chairing general meetings
- 47. Attendance and speaking by non-Members
- 48. Adjournment

**Division 2 - Voting at General Meetings**

- 49. General rules on voting
- 50. Resolution in writing
- 51. Errors and disputes
- 52. Demanding a poll
- 53. Number of votes a Member has
- 54. Votes of joint Holders of shares
- 55. Votes of Mentally Incapacitated Members
- 56. Content of Proxy Notices
- 57. Execution of appointment of proxy on behalf of Member appointing the proxy
- 58. Delivery of Proxy Notice and notice revoking appointment of proxy
- 59. Effect of Member's voting in person on proxy's authority
- 60. Effect of proxy votes in case of death, Mental Incapacity, etc of Member appointing the proxy
- 61. Amendments to proposed resolutions

**Division 3 - Application of Rules to Class Meetings**

- 62. Class meetings

**Division 4 - Sole Member Bank**

63. Decision making by a sole member

**Part 5  
Shares and Distributions**

**Division 1 - Issue of Shares**

64. Maximum number of shares that the Bank may issue  
65. Miscellaneous provisions regarding issue of shares

**Division 2 - Interests in Shares**

66. The Bank only bound by absolute interests  
67. Joint Holders of shares

**Division 3 - Share Certificates**

68. Certificates to be issued except in certain cases  
69. Contents and execution of share certificates  
70. Consolidated share certificates  
71. Replacement share certificates  
72. Calls notices  
73. Liability to pay Calls  
74. When a call notice need not be issued  
75. Failure to comply with call notice: automatic consequences  
76. Notice of intended forfeiture  
77. Directors' power to forfeit shares  
78. Effect of forfeiture  
79. Procedure following forfeiture  
80. Lien  
81. Enforcement of the Bank's lien

**Division 4 - Transfer and Transmission of Shares**

82. Transfer of shares  
83. Power of Directors to refuse transfer of shares



- 84. Transmission of shares
- 85. Transmittees' rights
- 86. Exercise of Transmittees' rights
- 87. Transmittees bound by prior notices

**Division 5 - Alteration and Reduction of Share Capital,  
Share Buy-backs and Allotment of Shares**

- 88. Alteration of share capital
- 89. Reduction of share capital
- 90. Share buy-backs
- 91. Allotment of shares

**Division 6 - Distributions**

- 92. Procedure for declaring Dividends
- 93. Payment of Dividends and other distributions
- 94. No interest on distributions
- 95. Unclaimed distributions
- 96. Non-cash distributions
- 97. Waiver of distributions

**Division 7 - Capitalisation of Profits**

- 98. Capitalisation of profits

**Part 6  
Miscellaneous Provisions**

**Division 1 - Communications to and by the Bank**

- 99. Means of communication to be used

**Division 2 - Administrative Arrangements**

- 100. No right to inspect accounts and other records
- 101. Auditor's insurance
- 102. Winding up

**PART 1**  
**PRELIMINARY**

**1. Application of the Model Articles**

The regulations in the Companies (Model Articles) Notice (Cap. 622H) shall not apply to the Bank.

**2. Interpretation**

(1) In these Articles:-

*"Alternate"* and *"Alternate Director"* mean a person appointed by a Director as an 'Alternate' under Article 34(1);

*"Appointor"* means 'Appointor' as per Article 34(1);

*"Articles"* means these Articles of Association of the Bank in their present form or as altered from time to time;

*"Associated Company"* means, in relation to the Bank:-

- (a) a subsidiary of the Bank;
- (b) a holding company of the Bank; or
- (c) a subsidiary of such a holding company;

*"Auditor"* means the auditor for the time being of the Bank;

*"Bank"* means the above named bank;

*"Banking Ordinance"* means the Banking Ordinance (Cap. 155) and includes every other ordinance incorporated therewith or substituted therefor; and in the case of any such substitution the references in these Articles to the provisions of the Banking Ordinance shall be read as references to the provisions substituted therefor in the new ordinance;

*"Board"* means the Director or Directors for the time being of the Bank or the Director or Directors present at a duly convened meeting of Directors at which a quorum is present;

*"Call"* means a notice to a shareholder requiring the shareholder to pay the Bank a specified sum of money;

*"Chairman"* means the chair of the Board, being the individual who is either a non-executive Director or an independent non-executive Director and responsible for the leadership and effective running of the Board, and ensuring that decisions of the Board are taken on a sound and well-informed basis and in the best interest of the Bank, and who have received the written consent of the HKMA to be the chairman of the Board.

**"Chief Executive"** means the Chief Executive of the Bank, being the individual responsible for directly supervising the conduct of the Bank and who have received the written consent of the HKMA to become the chief executive of the Bank;

**"Controller"** has the meaning ascribed to it in the Banking Ordinance;

**"Director"** in addition to any person appointed as a director or Alternate Director of the Bank, has the meaning ascribed to it in the Ordinance and who has received the written consent of the HKMA to become a director of the Bank, and any reference to "Directors" shall, where only one Director has been appointed, be a reference to that one Director;

**"Distribution Recipient"** means, in relation to a share in respect of which a Dividend or other sum is payable:-

- (a) the Holder of the share;
- (b) if the share has two or more joint Holders, whichever of them is named first in the Register of Members; or
- (c) if the Holder is no longer entitled to the share by reason of death or bankruptcy or otherwise by operation of law, the Transmittree;

**"Dividend"** includes distributions in cash, in specie or in kind, capital distributions and capitalisation issues;

**"fully paid"**, in relation to a share, means the price at which the share was issued has been fully paid to the Bank;

**"Holder"**, in relation to a share, means the person whose name is entered in the Register of Members as the Member and holder of the share;

**"HKMA"** means the Hong Kong Monetary Authority;

**"Hong Kong"** means the Hong Kong Special Administrative Region of the People's Republic of China;

**"Member"** means a founder member of the Bank or a person who agrees to become a member of the Bank, or a Controller who has received the written consent of the HKMA to become the controller of the Bank; and whose name is entered as a member in the Register of Member(s);

**"Mental Health Ordinance"** means the Mental Health Ordinance (Cap. 136) and includes every other ordinance incorporated therewith or substituted therefor;

**"Mental Incapacity"** has the meaning ascribed to it in the Mental Health Ordinance;

**"Mentally Incapacitated Person"** means a person who is found under the Mental Health Ordinance to be incapable, by reason of Mental Incapacity, of managing and administering his or her property and affairs;

**"month"** means calendar month;

**"Office"** means the registered office of the Bank for the time being;

**"Ordinance"** means the Companies Ordinance (Cap. 622) and includes every other ordinance incorporated therewith or substituted therefor; and in the case of any such substitution the references in these Articles to the provisions of the Ordinance shall be read as references to the provisions substituted therefor in the new ordinance;

**"ordinary resolution"** means 'ordinary resolution' as per section 563 of the Ordinance;

**"paid"** means paid or credited as paid;

**"Proxy Notice"** means 'proxy notice' as per Article 56(2);

**"Register of Members"** means the register of Members of the Bank kept pursuant to the Ordinance and includes any branch register kept pursuant to the Ordinance;

**"Secretary"** means the person appointed for the time being to perform for the Bank the duties of a company secretary;

**"share"** means a share in the capital of the Bank;

**"special resolution"** means 'special resolution' as per section 564 of the Ordinance;

**"Transmittee"** means a person entitled to a share by reason of the death or bankruptcy of a Member or otherwise by operation of law;

**"Vice Chairman"** means the individual who will chair a Board meeting in the absence of the Chairman or when the Chairman is unable to act, and acts as the deputy of the Chairman in the ordinary course;

**"in writing"** or **"written"** includes cable and telex messages and any mode of reproducing words in a legible and non-transitory form; and

**"\$"** means dollars in the legal currency of Hong Kong.

- (2) Other words or expressions used in these Articles have the same meaning as in the Ordinance as in force on the date these Articles become binding on the Bank.
- (3) For the purposes of these Articles, a document is authenticated if it is authenticated in any way in which section 828(5) or 829(3) of the Ordinance provides for documents or information to be authenticated for the purposes of the Ordinance.
- (4) In these Articles, if not inconsistent with the subject or context, words importing the singular number only shall include the plural number and vice versa, words importing any gender shall include all other genders and references to persons shall include corporations (acting, where applicable, by their duly authorised representatives).
- (5) The headings and any marginal notes are inserted for convenience only and shall not affect the construction of these Articles.

**PART 2  
PRIVATE COMPANY**

**3. Bank is private company**

- (1) The Bank is a private company and accordingly:-
- (a) A Member's right to transfer shares is restricted in the manner specified in this Article;
  - (b) the number of Members is limited to 50; and
  - (c) any invitation to the public to subscribe for any shares or debentures of the Bank is prohibited.
- (2) The Directors may in their discretion refuse to register the transfer of a share.
- (3) In paragraph (1)(b):-
- Member* excludes:-
- (a) a Member who is an employee of the Bank; and
  - (b) a person who was a Member while being an employee of the Bank and who continues to be a Member after ceasing to be such an employee.
- (4) For the purposes of this Article, two or more persons who hold shares in the Bank jointly are to be regarded as one Member.

**4. The Office**

The Office of the Bank shall be at such place in Hong Kong as the Directors shall from time to time appoint.

**PART 3  
DIRECTORS AND SECRETARY**

**Division 1 - Directors' Powers and Responsibilities**

**5. Number of Directors**

Unless and until otherwise determined by an ordinary resolution of the Bank, the Directors shall be not fewer than five in number, of whom at least three should be independent non-executive Directors, and at least one Director must be a natural person. There shall be no maximum number of Directors.

**6. Shareholding in the Bank**

A Director need not hold any shares in the Bank. A Director who is not a Member of the Bank shall nevertheless be entitled to attend and speak at general meeting.

**7. Directors' general authority**

- (1) The business and affairs of the Bank shall be managed by the Directors, who may exercise all the powers of the Bank as are not by the Ordinance or by these Articles required to be exercised by the Bank in general meeting, subject to any provision in these Articles or the Ordinance and to any resolution, not being inconsistent with any such provision, as may be passed by the Bank in general meeting.
- (2) All cheques, promissory notes, drafts, bills of exchange, and other negotiable or transferable instruments, and all receipts for moneys paid to the Bank, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, in such manner as the Directors shall from time to time by resolution determine.
- (3) Subject to and to the extent permitted by the Ordinance, the Bank, or the Directors on behalf of the Bank, may cause to be kept in any territory a branch register of Members resident in such territory, and the Directors may make and vary such regulations as they may think fit respecting the keeping of any such branch register.
- (4) The Directors shall cause a proper register to be kept, in accordance with the provisions of the Ordinance, of all mortgages and charges affecting the property of the Bank and shall duly comply with the requirements of the Ordinance in regard to the registration of mortgages and charges therein specified and otherwise. Where any uncalled capital of the Bank is charged, all persons taking any subsequent charge thereon shall take the same subject to such prior charge, and shall not be entitled, by notice to the Members or otherwise, to obtain priority over such prior charge.
- (5) Any resolution of the Directors and alteration of these Articles does not invalidate any prior act of the Directors that would have been valid if the resolution had not been passed or the alteration had not been made.
- (6) The powers given to the Directors by this Article are not limited by any other power or special authority given to the Directors by these Articles.
- (7) A Directors' meeting at which a quorum is present may exercise all powers exercisable by the Directors.

**8. Members' reserve power**

- (1) The Members may, by special resolution, direct the Directors to take, or refrain from taking, specified action.
- (2) The special resolution does not invalidate anything that the Directors have done before the passing of the resolution.

**9. Directors may delegate**

- (1) Subject to these Articles, the Directors may, if they think fit, delegate any of the powers that are conferred on them under these Articles or any of the powers, authorities and discretions vested in the Directors:-
  - (a) to any person, body of persons or committee including local boards or agencies, or any manager or agent for the Bank;

- (b) by any means (including by power of attorney);
  - (c) to any extent and without territorial limit;
  - (d) in relation to any matter; and
  - (e) on any terms and conditions.
- (2) If the Directors so specify, the delegation may authorise further delegation of the Directors' powers by any person to whom they are delegated.
- (3) The Directors may:-
- (a) revoke the delegation wholly or in part; or
  - (b) revoke or alter its terms and conditions.

**10. Committees**

- (1) The Directors may make rules providing for the conduct of business of the committees to which they have delegated any of their powers provided that every such committee shall conform to such directions as the Directors shall impose on them and provide further that the meetings and proceedings of such committee shall be governed by the provisions of these Articles regulating the meetings and proceedings of the Board, so far as the same are applicable and are not superseded by directions imposed by the Directors.
- (2) The committees must comply with the rules.

**Division 2 - Decision-taking by Directors**

**11. Executive Directors and other appointments**

- (1) The Directors may, from time to time, appoint one or more of their number to be executive Director of the Bank, or to hold such office in the management, administration or conduct of the business of the Bank as they may decide, and for such period and upon such terms and for such remuneration as the Directors shall think fit, and the Directors may also, from time to time (subject to the provisions of any agreement between him or them and the Bank) remove him or them from office, and appoint another or others in his or their place or places.
- (2) An executive Director (subject to the provisions of any agreement between him and the Bank) shall be subject to the same provisions as to resignation and removal as the other Directors of the Bank, and shall ipso facto and immediately cease to be executive Director if he shall cease to hold the office of Director.
- (3) The Directors may, from time to time, entrust to and confer upon any executive Director or Director, holding any other office in the management, administration or conduct of the business of the Bank, such of the powers exercisable under these Articles by the Directors as they may think fit, and may confer such powers for such time, and to be exercised for such objects and purposes, and upon such terms and conditions and with such restrictions as they may consider expedient, and may confer such powers collaterally with, or to the exclusion of, and in substitution for, all or any

of the powers of the Directors in that behalf, and may from time to time revoke, withdraw, alter or vary all or any of such powers.

- (4) The Directors may, from time to time, appoint a Chief Executive, Alternate Chief Executive(s), Chief Risk Officer, Chief Operations Officer, Chief Financial Officer, Chief Compliance Officer, Chief Information Technology Officer, Chief Internal Auditor, Chief Marketing Officer, Head of Retail Banking, Head of SME and Head of Financial Technology Solutions (or similar offices) (collectively, "**Senior Management**"). Such members of Senior Management shall have such powers and perform such duties in the management, business and affairs of the Bank as may be delegated to them by the Directors from time to time.

**12. Directors to take decision collectively**

- (1) A decision of the Directors may only be taken:-
  - (a) by a majority of the Directors at a meeting or by all the Directors pursuant to Article 21; or
  - (b) in accordance with Article 13.

**13. Unanimous decisions**

- (1) A decision of the Directors is taken in accordance with this Article when all eligible Directors indicate to each other (either directly or indirectly) by any means that they share a common view on a matter.
- (2) Such a decision may take the form of a resolution in writing, copies of which have been signed by each eligible Director or to which each eligible Director has otherwise indicated agreement in writing.
- (3) A reference in this Article to eligible Directors is a reference to Directors who would have been entitled to vote on the matter if it had been proposed as a resolution at a Directors' meeting.
- (4) A decision may not be taken in accordance with this Article if the eligible Directors would not have formed a quorum at a Directors' meeting.

**14. Calling Directors' meetings**

- (1) Any Director or the Secretary may call a Directors' meeting by giving notice of the meeting at least 14 days before the proposed date of the meeting to the Directors.
- (2) Notice of a Directors' meeting must indicate:-
  - (a) its proposed date and time; and
  - (b) where it is to take place.
- (3) Notice of a Directors' meeting must be given to each Director. Notice of a meeting of Directors shall be deemed to be duly given to a Director if it is given to him personally, in writing or by word of mouth, or sent to him at his last known address or, if sent by electronic means, the email address, or any other address given by him to



the Bank for this purpose. A Director may consent to short notice of and may waive notice of any meeting and any such waiver may be retrospective.

**15. Participation in Directors' meetings**

- (1) Subject to these Articles, Directors participate in a Directors' meeting, or part of a Directors' meeting, when:-
  - (a) the meeting has been called and takes place in accordance with these Articles; and
  - (b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- (2) In determining whether Directors are participating in a Directors' meeting, it is irrelevant where a Director is and how they communicate with each other. Any one or more (including, without limitation, all) members of the Board, or any committee thereof, may participate in a Director's meeting by means of a telephone or video conference similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participating by such means shall constitute presence in person at a meeting.
- (3) The Directors' meeting shall be deemed to have occurred at the place where a majority of the Directors are present. If all the Directors participating in a Directors' meeting are not in the same place, they may regard the meeting as taking place wherever any one of them is.

**16. Quorum for Directors' meetings**

- (1) At a Directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- (2) The quorum for Directors' meetings may be fixed from time to time by a decision of the Directors and unless otherwise fixed it is three, two of whom should be independent non-executive Directors and must include either the Chairman or the Vice Chairman.

**17. Meetings if total number of Directors less than quorum**

If the total number of Directors for the time being is less than the quorum required for Directors' meetings, the Directors must not take any decision other than a decision:-

- (1) to appoint further Directors; or
- (2) to call a general meeting so as to enable the Members to appoint further Directors.

**18. Chairing of Directors' meetings**

- (1) The Chairman shall chair each board meeting, or if at any meeting the Chairman be not present within five minutes after the time appointed for holding the same, the Vice Chairman will chair the meeting.

- (2) The appointment of the Chairman and/or the Vice Chairman may only be terminated by ordinary resolution.

**19. Chairperson's casting vote at Directors' meetings**

- (1) If the numbers of votes for and against a proposal are equal, the Chairman or other Director chairing the Directors' meeting has a second or casting vote.
- (2) Paragraph (1) does not apply if, in accordance with these Articles, the Chairman or other Director is not to be counted as participating in the decision-making process for quorum or voting purposes.

**20. Alternates voting at Directors' meetings**

A Director who is also an Alternate Director has an additional vote on behalf of each Appointor who:-

- (1) is not participating in a Directors' meeting; and
- (2) would have been entitled to vote if he or she were participating in it.

**21. Resolution in writing**

- (1) A resolution in writing signed by all the Directors shall be as effective for all purposes as a resolution of the Directors passed at a meeting duly convened, held and constituted.
- (2) A written notification of confirmation of a resolution in writing sent by a Director shall be deemed to be his signature to such resolution in writing for the purposes of this Article.
- (3) A resolution in writing may consist of several documents, each signed by one or more Directors.

**22. Conflicts of interest**

- (1) This Article applies if:-
  - (a) a Director is in any way (directly or indirectly) interested in a transaction, arrangement or contract with the Bank that is significant in relation to the Bank's business; and
  - (b) the Director's interest is material.
- (2) The Director must declare the nature and extent of the Director's interest to the other Directors in accordance with section 536 of the Ordinance.
- (3) Subject as set out in the proviso to this Article and Article 23, a Director or his Alternate shall be entitled to vote in respect of any contract or arrangement in which he is interested or upon any matter arising thereout, and if he shall so vote his vote shall be counted, and he shall be taken into account in determining the quorum for the meeting at which any such contract or arrangement is to be considered.

23. **Supplementary provisions as to conflicts of interest**

- (1) A Director may hold any other office or position of profit under the Bank (other than the office of Auditor), and he or any firm of which he is a member may act in a professional capacity for the Bank in conjunction with the office of Director for a period and on terms (as to remuneration or otherwise) that the Directors determine.
- (2) A Director or intending Director is not disqualified, as a result of holding the office of Director, from contracting with the Bank:-
  - (a) with regard to the tenure of the other office or position of profit mentioned in paragraph (1); or
  - (b) as vendor, purchaser or otherwise.
- (3) The contract mentioned in paragraph (2) or any transaction, arrangement or contract entered into by or on behalf of the Bank in which any Director is in any way interested is not liable to be avoided as a result of the Director holding his office.
- (4) A Director who has entered into a contract mentioned in paragraph (2) or is interested in a transaction, arrangement or contract mentioned in paragraph (3) is not liable to account to the Bank for any profit realised by the transaction, arrangement or contract by reason of:-
  - (a) the Director holding the office; or
  - (b) the fiduciary relationship established by holding the office.
- (5) Paragraphs (1), (2), (3) and/or (4) only apply if the Director has declared the nature and extent of the Director's interest under the relevant paragraph to the other Directors in accordance with section 536 of the Ordinance.
- (6) A Director of the Bank may be a Director or other officer of, or be otherwise interested in:-
  - (a) any company promoted by the Bank; or
  - (b) any company in which the Bank may be interested as shareholder or otherwise.
- (7) Subject to the Ordinance, the Director is not accountable to the Bank for any remuneration or other benefits received by the Director as a director or officer of, or from the Director's interest in, the other company unless the Bank otherwise directs.
- (8) The Board may exercise the voting powers conferred by the shares in any other company held or owned by the Bank in such manner in all respects as the Board thinks fit (including the exercise thereof in favour of any resolution appointing the Directors or any of them directors or other officers of such company or voting or providing for the payment of remuneration to the directors of such company) and any Director of the Bank may vote in favour of the exercise of such voting rights in manner aforesaid notwithstanding that he may be, or be about to be, appointed a director or other officer of such other company and as such is or may become interested in the exercise of such voting rights in manner aforesaid.

- (9) Where the Bank has only one Member and that Member is also a Director, the Bank shall comply with section 545 of the Ordinance.

**24. Validity of acts of meeting of Directors**

The acts of any meeting of Directors or of a committee of Directors or the acts of any person acting as a Director are as valid as if the Directors or the person had been duly appointed as a Director and was qualified to be a Director, even if it is afterwards discovered that:-

- (1) there was a defect in the appointment of any of the Directors or of the person acting as a Director;
- (2) any one or more of them were not qualified to be a Director or were disqualified from being a Director;
- (3) any one or more of them had ceased to hold office as a Director; or
- (4) any one or more of them were not entitled to vote on the matter in question.

**25. Record of decisions to be kept**

The Directors must ensure that the Bank keeps a written record of every decision taken by the Directors under Articles 12(1) and 21 for at least 10 years from the date of the decision.

**26. Written record of decision of sole Director**

- (1) This Article applies if the Bank has only one Director and the Director takes any decision that:-
  - (a) may be taken in a Directors' meeting; and
  - (b) has effect as if agreed in a Directors' meeting.
- (2) The Director must provide the Bank with a written record of the decision within 7 days after the decision is made.
- (3) The Director is not required to comply with paragraph (2) if the decision is taken by way of a resolution in writing.
- (4) If the decision is taken by way of a resolution in writing, the Bank must keep the resolution for at least 10 years from the date of the decision.
- (5) The Bank must also keep a written record provided to it in accordance with paragraph (2) for at least 10 years from the date of the decision.

**27. Directors' discretion to make further rules**

Subject to these Articles, the Directors may make any rule that they think fit about:-

- (1) how they take decisions; and
- (2) how the rules are to be recorded or communicated to Directors.

### **Division 3 - Appointment of Directors**

#### **28. Appointment of Directors**

- (1) A person who is willing to act as a Director, and is permitted by law and the HKMA to do so, may be appointed to be a Director:-
  - (a) by ordinary resolution; or
  - (b) by a decision of the Directors.
- (2) Unless otherwise specified in the appointment, a Director appointed under paragraph (1)(a),
  - (a) who is a non-executive Director (including an independent non-executive Director), holds office for a term of three years which can be extended by re-appointment, except that where a non-executive Director has served on the Board for more than nine years, then his/her term of re-appointment is one year. In renewing the term of appointment of each non-executive Director, the Board (or the relevant Board committee) should review whether such non-executive Director remains qualified for his/her directorship; or
  - (b) who is an executive Director, holds office for an unlimited period of time, provided that, the term will be tied to the term of the employment of the respective executive Director.
- (3) An appointment under paragraph (1)(b) may only be made to:-
  - (a) fill a casual vacancy; or
  - (b) appoint a Director as an addition to the existing Directors.

#### **29. Composite resolution**

- (1) This Article applies if proposals are under consideration concerning the appointment of two or more Directors to offices or employments with the Bank or any other body corporate.
- (2) The proposals may be divided and considered in relation to each Director separately.
- (3) Each of the Directors concerned is entitled to vote (if the Director is not for another reason precluded from voting) and be counted in the quorum in respect of each resolution except that concerning the Director's own appointment.

#### **30. Termination of Director's appointment**

- (1) A person ceases to be a Director if the person:-
  - (a) ceases to be a Director under the Ordinance or the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) or is prohibited from being a Director by law;
  - (b) becomes bankrupt or makes any arrangement or composition with the person's creditors generally;

- (c) ceases to meet the expectation of HKMA as being “a fit and proper person” under the “Guideline on Minimum Criteria for Authorisation” issued by the HKMA to hold the position as director of an authorised institution under the Banking Ordinance, or the approval under section 71 of the Banking Ordinance in respect of such person is otherwise revoked;
  - (d) becomes a Mentally Incapacitated Person;
  - (e) resigns the office of Director by notice in writing of the resignation in accordance with section 464(5) of the Ordinance;
  - (f) for more than six months has been absent without the Directors' permission from Directors' meetings held during that period; or
  - (g) is removed from the office of Director by an ordinary resolution of the Bank notwithstanding anything in the Articles or in any agreement between him and the Bank (but without prejudice to any right to damages for termination of such agreement not in accordance with the terms thereof); or
  - (h) is convicted of an indictable offence.
- (2) The continuing Directors may act notwithstanding any vacancy in their body, but if and so long as the number of Directors is reduced below the number fixed by or pursuant to the Articles as the necessary quorum of Directors, the continuing Directors may act for the purpose of increasing the number of Directors to that number, or of summoning a general meeting of the Bank, but for no other purpose. If there shall be no Directors able or willing to act, then any one Member may summon a general meeting for the purpose of appointing Directors.

**31. Directors' remuneration**

- (1) Directors' remuneration must be determined by the Bank at a general meeting.
- (2) A Director's remuneration may:-
  - (a) take any form; and
  - (b) include any arrangements in connection with the payment of a retirement benefit to or in respect of that Director.
- (3) Directors' remuneration accrues from day to day.
- (4) The Directors may award extra remuneration out of the funds of the Bank (by way of salary, commission or otherwise as the Directors may determine) to any Director who performs services which in the opinion of the Directors are outside the scope of the ordinary duties of a Director.

**32. Directors' expenses**

The Bank may pay any travelling, accommodation and other expenses properly incurred by Directors in connection with:-

- (1) their attendance at:-

- (a) meetings of Directors or committees of Directors;
  - (b) general meetings; or
  - (c) separate meetings of the Holders of any class of shares or of debentures of the Bank; or
- (2) the exercise of their powers and the discharge of their responsibilities in relation to the Bank.

#### **Division 4 - Reserve Directors**

#### **33. Nomination of reserve Directors**

- (1) If the Bank has only one Member and that Member is also the sole Director of the Bank, the Bank may in general meeting nominate a person (other than a body corporate) who has attained the age of 18 years as a reserve Director to act in place of the sole Director in the event of his death.
- (2) The nomination of a person as a reserve Director ceases to have effect if, in accordance with section 455(2) of the Ordinance:-
  - (a) the person resigns as reserve Director;
  - (b) the Bank at a general meeting revokes the nomination; or
  - (c) the Director in respect of whom the person was nominated ceases to be the sole Member and sole Director of the Bank for any reason other than the death of that Director.

#### **Division 5 - Alternate Directors**

#### **34. Appointment and removal of Alternates**

- (1) A Director (*Appointor*) may appoint as an Alternate any other Director, or any other person approved by resolution of the Directors.
- (2) An Alternate may exercise the powers and carry out the responsibilities of the Alternate's Appointor, in relation to the taking of decisions by the Directors in the absence of the Alternate's Appointor.
- (3) An appointment or removal of an Alternate by the Alternate's Appointor must be effected:-
  - (a) by notice to the Bank; or
  - (b) in any other manner approved by the Directors.
- (4) The notice must be authenticated by the Appointor.
- (5) The notice must:-
  - (a) identify the proposed Alternate; and

- (b) if it is a notice of appointment, contain a statement authenticated by the proposed Alternate indicating the proposed Alternate's willingness to act as the Alternate of the Appointor.
- (6) If an Alternate is removed by resolution of the Directors, the Bank must as soon as practicable give notice of the removal to the Alternate's Appointor.

**35. Rights and responsibilities of Alternate Directors**

- (1) An Alternate Director has the same rights as the Alternate's Appointor in relation to any decision taken by the Directors under Article 12(1).
- (2) Unless these Articles specify otherwise, Alternate Directors:-
  - (a) are deemed for all purposes to be Directors;
  - (b) are liable for their own acts and omissions;
  - (c) are subject to the same restrictions as their Appointors; and
  - (d) are deemed to be agents of or for their Appointors.
- (3) A person who is an Alternate Director but not a Director:-
  - (a) may be counted as participating for determining whether a quorum is participating (but only if that person's Appointor is not participating); and
  - (b) may sign a written resolution (but only if it is not signed or to be signed by that person's Appointor).
- (4) Any Director of the Bank who is appointed as an Alternate Director shall be counted or regarded as two Directors for determination whether—
  - (a) a quorum is participating; or
  - (b) a Directors' written resolution is adopted.
- (5) An Alternate Director is not entitled to receive any remuneration from the Bank for serving as an Alternate Director.
- (6) The Alternate's Appointor may, however, by notice in writing made to the Bank, direct that any part of the Appointor's remuneration be paid to the Alternate.

**36. Termination of Alternate directorship**

- (1) An Alternate Director's appointment as an Alternate terminates:-
  - (a) if the Alternate's Appointor revokes the appointment by notice to the Bank in writing specifying when it is to terminate;
  - (b) on the occurrence in relation to the Alternate of any event which, if it occurred in relation to the Alternate's Appointor, would result in the termination of the Appointor's appointment as a Director;



- (c) on the death of the Alternate's Appointor; or
  - (d) when the Alternate's Appointor's appointment as a Director terminates.
- (2) If the Alternate was not a Director when appointed as an Alternate, the Alternate's appointment as an Alternate terminates if:-
- (a) the approval under Article 34(1) is withdrawn or revoked; or
  - (b) the Bank by an ordinary resolution passed at a general meeting terminates the appointment.

#### **Division 6 - Directors' Indemnity and Insurance**

#### **37. Indemnity**

- (1) A Director or former Director of the Bank may be indemnified out of the Bank's assets against any liability incurred by the Director to a person other than the Bank or an Associated Company of the Bank in connection with any negligence, default, breach of duty or breach of trust in relation to the Bank or Associated Company (as the case may be).
- (2) The indemnity in paragraph (1) does not cover:-
- (a) any liability of the Director to pay:-
    - (i) a fine imposed in criminal proceedings; or
    - (ii) a sum payable by way of a penalty in respect of non-compliance with any requirement of a regulatory nature; or
  - (b) any liability incurred by the Director:-
    - (i) in defending criminal proceedings in which the Director is convicted;
    - (ii) in defending civil proceedings brought by the Bank, or an Associated Company of the Bank, in which judgment is given against the Director;
    - (iii) in defending civil proceedings brought on behalf of the Bank by a Member of the Bank or of an Associated Company of the Bank, in which judgment is given against the Director;
    - (iv) in defending civil proceedings brought on behalf of an Associated Company of the Bank by a member of the Associated Company or by a member of an Associated Company of the Associated Company, in which judgment is given against the Director; or
    - (v) in connection with an application for relief under section 903 or 904 of the Ordinance in which the Court refuses to grant the Director relief.

- (3) A reference in paragraph (2)(b) to a conviction, judgment or refusal of relief is a reference to the final decision in the proceedings.
- (4) For the purposes of paragraph (3), a conviction, judgment or refusal of relief:-
  - (a) if not appealed against, becomes final at the end of the period for bringing an appeal; or
  - (b) if appealed against, becomes final when the appeal, or any further appeal, is disposed of.
- (5) For the purposes of paragraph (4)(b), an appeal is disposed of if:-
  - (a) it is determined, and the period for bringing any further appeal has ended; or
  - (b) it is abandoned or otherwise ceases to have effect.

**38. Insurance**

The Directors may decide to purchase and maintain insurance, at the expense of the Bank, for a Director of the Bank, or a Director of an Associated Company of the Bank, against:-

- (1) any liability to any person attaching to the Director in connection with any negligence, default, breach of duty or breach of trust (except for fraud) in relation to the Bank or Associated Company (as the case may be); or
- (2) any liability incurred by the Director in defending any proceedings (whether civil or criminal) taken against the Director for any negligence, default, breach of duty or breach of trust (including fraud) in relation to the Bank or Associated Company (as the case may be).

**Division 7 - Secretary**

**39. Appointment and removal of Secretary**

- (1) The Directors may appoint a Secretary for a term, at a remuneration and on conditions they think fit.
- (2) The Directors may remove a Secretary appointed by them.
- (3) A sole Director of the Bank shall not act as Secretary.
- (4) Where the Bank has only one Director, a body corporate of which the sole Director is also the sole director shall not act as the Secretary.

**PART 4  
DECISION-TAKING BY MEMBERS**

**Division 1 - Organisation of General Meetings**

**40. General meetings**

- (1) Subject to sections 611, 612 and 613 of the Ordinance, the Bank must, in respect of each financial year of the Bank, hold a general meeting as its annual general meeting in accordance with section 610 of the Ordinance.
- (2) The Directors may, if they think fit, call a general meeting.
- (3) If the Directors are required to call a general meeting requested by Member(s) under section 566 of the Ordinance, they must call it in accordance with section 567 of the Ordinance.
- (4) If the Directors do not call a general meeting in accordance with section 567 of the Ordinance, the Members who requested the meeting, or any of them representing more than one half of the total voting rights of all of them, may themselves call a general meeting in accordance with section 568 of the Ordinance.

**41. Notice of general meetings**

- (1) An annual general meeting must be called by notice of at least 21 days in writing.
- (2) A general meeting other than an annual general meeting must be called by notice of at least 14 days in writing.
- (3) The notice is exclusive of:-
  - (a) the day on which it is served or deemed to be served; and
  - (b) the day for which it is given.
- (4) The notice must:-
  - (a) specify the date and time of the meeting;
  - (b) specify the place of the meeting (and if the meeting is to be held in two or more places, the principal place of the meeting and the other place or places of the meeting);
  - (c) state the general nature of the business to be dealt with at the meeting;
  - (d) for a notice calling an annual general meeting, state that the meeting is an annual general meeting;
  - (e) if a resolution (whether or not a special resolution) is intended to be moved at the meeting:-
    - (i) include notice of the resolution; and
    - (ii) include or be accompanied by a statement containing any information or explanation that is reasonably necessary to indicate the purpose of the resolution;
  - (f) if a special resolution is intended to be moved at the meeting, specify the intention and include the text of the special resolution; and

- (g) contain a statement specifying a Member's right to appoint a proxy under section 596(1) and (3) of the Ordinance.
- (5) Paragraph (4)(e) does not apply in relation to a resolution of which:-
  - (a) notice has been included in the notice of the meeting requested to be called by Members issued under section 567(3) or notice of the meeting called by Members issued under 568(2) of the Ordinance; or
  - (b) notice has been given in relation to an annual general meeting pursuant to section 615 of the Ordinance.
- (6) Despite the fact that a general meeting is called by shorter notice than that specified in this Article, it is regarded as having been duly called if it is so agreed:-
  - (a) for an annual general meeting, by all the Members entitled to attend and vote at the meeting; and
  - (b) in any other case, by a majority in number of the Members entitled to attend and vote at the meeting, being a majority together representing at least 95% of the total voting rights at the meeting of all the Members.

**42. Persons entitled to receive notice of general meetings**

- (1) Notice of a general meeting must be given to:-
  - (a) every Member; and
  - (b) every Director.
- (2) In paragraph (1), the reference to a Member includes a Transmittree, if the Bank has been notified of the Transmittree's entitlement to a share.
- (3) If notice of a general meeting or any other document relating to the meeting is required to be given to a Member, the Bank must give a copy of it to its Auditor (if more than one Auditor, to every one of them) at the same time as the notice or the other document is given to the Member.

**43. Accidental omission to give notice of general meetings**

Any accidental omission to give notice of a general meeting or (in cases where instruments of proxy are sent out with the notice) the accidental omission to send such instrument of proxy to, or any non-receipt of notice of a general meeting or such instrument of proxy by, any person entitled to receive notice does not invalidate the proceedings at the meeting.

**44. Attendance and speaking at general meetings**

- (1) The Directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- (2) In determining attendance at a general meeting, it is immaterial whether any two or more Members attending it are in the same place as each other.
- (3) For purposes of paragraphs (1) and (2) above and (5) below:

- (a) A person is able to exercise the right to speak at a general meeting when the person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions that the person has on the business of the meeting.
- (b) A person is able to exercise the right to vote at a general meeting when:-
  - i. the person is able to vote, during the meeting, on resolutions put to the vote at the meeting; and
  - ii. the person's vote can be taken into account in determining whether or not those resolutions are passed at the same time as the votes of all the other persons attending the meeting.
- (4) Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have rights to speak and vote at the meeting, they are able to exercise them.
- (5) Without limiting the generality of the foregoing, any one or more (including, without limitation, all) Members may participate in any general meeting by means of a telephone or video conference or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participating by such means shall constitute presence in person at a general meeting.
- (6) The general meeting shall be deemed to have occurred at the place where a majority of the Members are present or, if none, where the chairperson of the general meeting is present.

45. **Quorum for general meetings**

- (1) Two Members present in person or by proxy constitute a quorum at a general meeting.
- (2) No business other than the appointment of the chairperson of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

46. **Chairing general meetings**

- (1) If the Chairman is present at a general meeting and is willing to preside as chairperson at the meeting, the meeting is to be presided over by him or her.
- (2) The Directors present at a general meeting must elect the Vice Chairman, or in his/her absence, one of themselves to be the chairperson if:-
  - (a) the Chairman is not present within five minutes after the time appointed for holding the meeting;
  - (b) the Chairman is unwilling to act; or
  - (c) the Chairman has given notice to the Bank of the intention not to attend the meeting.

- (3) The Members present at a general meeting must elect one of themselves to be the chairperson if:-
  - (a) no Director is willing to act as chairperson; or
  - (b) no Director is present within five minutes after the time appointed for holding the meeting.
- (4) A proxy may be elected to be the chairperson of a general meeting by a resolution of the Bank passed at the meeting.

**47. Attendance and speaking by non-Members**

- (1) Directors may attend and speak at general meetings, whether or not they are Members of the Bank.
- (2) The chairperson of a general meeting may permit other persons to attend and speak at a general meeting even though they are not:-
  - (a) Members of the Bank; or
  - (b) otherwise entitled to exercise the rights of Members in relation to general meetings.

**48. Adjournment**

- (1) If a quorum is not present within fifteen minutes from the time appointed for holding a general meeting, the meeting must:-
  - (a) if called on the request of Members, be dissolved; or
  - (b) in any other case, be adjourned to the same day in the next week, at the same time and place, or to another day and at another time and place that the Directors determine.
- (2) If at the adjourned meeting, a quorum is not present within fifteen minutes from the time appointed for holding the meeting, the Member or Members present in person or by proxy constitute a quorum and may transact the business for which the meeting is called.
- (3) The chairperson may adjourn a general meeting at which a quorum is present if:-
  - (a) the meeting consents to an adjournment; or
  - (b) it appears to the chairperson that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- (4) The chairperson must adjourn a general meeting if directed to do so by the meeting.
- (5) When adjourning a general meeting, the chairperson must specify the date, time and place to which it is adjourned.

- (6) Only the business left unfinished at the general meeting may be transacted at the adjourned meeting unless due notice thereof is given or such notice is waived in the manner prescribed by these Articles.
- (7) If a general meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as for an original meeting.
- (8) If a general meeting is adjourned for less than 30 days, it is not necessary to give any notice of the adjourned meeting.

#### **Division 2 - Voting at General Meetings**

##### **49. General rules on voting**

- (1) A resolution put to the vote of a general meeting must be decided on a show of hands unless (before or on the declaration of the result of the show of hands or on the withdrawal of any other demand for a poll) a poll is duly demanded in accordance with these Articles.
- (2) If there is an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded, is entitled to a second or casting vote.
- (3) On a vote on a resolution on a show of hands at a general meeting, a declaration by the chairperson that the resolution:-
  - (a) has or has not been passed; or
  - (b) has passed by a particular majority,is conclusive evidence of that fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (4) An entry in respect of the declaration in the minutes of the meeting is also conclusive evidence of that fact without the proof of the number of the votes recorded for or against such resolution.

##### **50. Resolution in writing**

- (1) Subject to the provisions of the Ordinance, a resolution in writing signed by all the Members for the time being entitled to receive notice of and to attend and vote at general meetings shall be as valid and effective as if the same had been passed at a general meeting of the Bank duly convened and held.
- (2) A written notice of confirmation of a resolution in writing sent by or on behalf of a Member shall be deemed to be his signature to such resolution in writing for the purposes of this Article.
- (3) A resolution in writing may consist of several documents each signed by or on behalf of one or more Members.

**51. Errors and disputes**

- (1) Any objection to the qualification of any person voting at a general meeting may only be raised at the meeting or adjourned meeting at which the vote objected to is tendered, and a vote not disallowed at the meeting is valid.
- (2) Any objection must be referred to the chairperson of the meeting whose decision is final.

**52. Demanding a poll**

- (1) A poll on a resolution may be demanded:-
  - (a) in advance of the general meeting where it is to be put to the vote; or
  - (b) at a general meeting, either before or on the declaration of the result of a show of hands on that resolution.
- (2) A poll on a resolution may be demanded by:-
  - (a) the chairperson of the meeting;
  - (b) at least two Members present in person or by proxy and entitled to vote at the meeting; or
  - (c) any Member or Members present in person or by proxy and representing at least 5% of the total voting rights of all the Members having the right to vote at the meeting.
- (3) The instrument appointing a proxy is regarded as conferring authority to demand or join in demanding a poll on a resolution.
- (4) A demand for a poll on a resolution may be withdrawn only with the approval of the chairperson of the meeting.

**53. Number of votes a Member has**

- (1) On a vote on a resolution on a show of hands at a general meeting:-
  - (a) every Member present in person has one vote; and
  - (b) every proxy present who has been duly appointed by a Member entitled to vote on the resolution has one vote.
- (2) If a Member appoints more than one proxy, the proxies so appointed are not entitled to vote on the resolution on a show of hands.
- (3) On a vote on a resolution on a poll taken at a general meeting:-
  - (a) every Member present in person has one vote for each share held by him or her; and
  - (b) every proxy present who has been duly appointed by a Member has one vote for each share in respect of which the proxy is appointed.



- (4) This Article has effect subject to any rights or restrictions attached to any shares or class of shares.

**54. Votes of joint Holders of shares**

- (1) For joint Holders of shares, only the vote of the most senior Holder who votes (and any proxies duly authorised by the Holder) may be counted.
- (2) For the purposes of this Article, the seniority of a Holder of a share is determined by the order in which the names of the joint Holders appear in the Register of Members.

**55. Votes of Mentally Incapacitated Members**

- (1) A Member who is a Mentally Incapacitated Person may vote, whether on a show of hands or on a poll, by the Member's committee, receiver, guardian or other person in the nature of a committee, receiver or guardian appointed by the Court.
- (2) The committee, receiver, guardian or other person may vote by proxy on a show of hands or on a poll.

**56. Content of Proxy Notices**

- (1) A proxy need not be a Member of the Bank.
- (2) A proxy may only validly be appointed by a notice in writing (*Proxy Notice*) that:-
  - (a) states the name and address of the Member appointing the proxy;
  - (b) identifies the person appointed to be that Member's proxy and the general meeting in relation to which that person is appointed;
  - (c) is authenticated, or is signed on behalf of the Member appointing the proxy; and
  - (d) is delivered to the Bank in accordance with these Articles and any instructions contained in the notice of the general meeting in relation to which the proxy is appointed.
- (3) The Bank may require Proxy Notices to be delivered in a particular form, and may specify different forms for different purposes.
- (4) If the Bank requires or allows a Proxy Notice to be delivered to it in electronic form, it may require the delivery to be properly protected by a security arrangement it specifies.
- (5) A Proxy Notice may specify how the proxy appointed under it is to vote (or that the proxy is to abstain from voting) on one or more resolutions dealing with any business to be transacted at a general meeting.
- (6) Unless a Proxy Notice indicates otherwise, it must be regarded as:-
  - (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the general meeting; and

- (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

**57. Execution of appointment of proxy on behalf of Member appointing the proxy**

If a Proxy Notice is not authenticated, it must be accompanied by written evidence of the authority of the person who executed the appointment to execute it on behalf of the Member appointing the proxy.

**58. Delivery of Proxy Notice and notice revoking appointment of proxy**

- (1) A Proxy Notice does not take effect unless it is received by the Bank:-
  - (a) for a general meeting or adjourned general meeting, at least 48 hours before the time appointed for holding the meeting or adjourned meeting; and
  - (b) for a poll taken more than 48 hours after it was demanded, at least 24 hours before the time appointed for taking the poll.
- (2) An appointment under a Proxy Notice may be revoked by delivering to the Bank a notice in writing given by or on behalf of the person by whom or on whose behalf the Proxy Notice was given.
- (3) A notice revoking the appointment only takes effect if it is received by the Bank:-
  - (a) for a general meeting or adjourned general meeting, at least 48 hours before the time appointed for holding the meeting or adjourned meeting; and
  - (b) for a poll taken more than 48 hours after it was demanded, at least 24 hours before the time appointed for taking the poll.

**59. Effect of Member's voting in person on proxy's authority**

- (1) A proxy's authority in relation to a resolution is to be regarded as revoked if the Member who has appointed the proxy:-
  - (a) attends in person the general meeting at which the resolution is to be decided; and
  - (b) exercises, in relation to the resolution, the voting right attached to the shares in respect of which the proxy is appointed.
- (2) A Member who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of the meeting or any adjournment of it, even though a valid Proxy Notice has been delivered to the Bank by or on behalf of the Member.

**60. Effect of proxy votes in case of death, Mental Incapacity, etc. of Member appointing the proxy**

- (1) A vote given in accordance with the terms of a Proxy Notice is valid despite:-
  - (a) the previous death or Mental Incapacity of the Member appointing the proxy;

- (b) the revocation of the appointment of the proxy or of the authority under which the appointment of the proxy is executed, in each case after the vote has been held; or
  - (c) the transfer of the share in respect of which the proxy is appointed.
- (2) Paragraph (1) does not apply if notice in writing of the death, Mental Incapacity, revocation or transfer is received by the Bank:-
- (a) for a general meeting or adjourned general meeting, at least 48 hours before the time appointed for holding the meeting or adjourned meeting; and
  - (b) for a poll taken more than 48 hours after it was demanded, at least 24 hours before the time appointed for taking the poll.

**61. Amendments to proposed resolutions**

- (1) An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if:-
- (a) notice of the proposed amendment is given to the Secretary in writing; and
  - (b) the proposed amendment does not, in the reasonable opinion of the chairperson of the meeting, materially alter the scope of the resolution.
- (2) The notice must be given by a person entitled to vote at the general meeting at which it is to be proposed at least 48 hours before the meeting is to take place (or a later time the chairperson of the meeting determines).
- (3) A special resolution to be proposed at a general meeting may be amended by ordinary resolution if:-
- (a) the chairperson of the meeting proposes the amendment at the meeting at which the special resolution is to be proposed; and
  - (b) the amendment merely corrects a grammatical or other non-substantive error in the special resolution.
- (4) If the chairperson of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the vote on that resolution remains valid unless the Court orders otherwise.

**Division 3 - Application of Rules to Class Meetings**

**62. Class meetings**

The provisions of these Articles relating to general meetings apply, with any necessary modifications, to meetings of the Holders of any class of shares.

#### **Division 4 - Sole Member Bank**

**63. Decision making by a sole member**

If the Bank shall have only one Member the provisions herein contained for meetings of, and voting by, Members shall not apply and in lieu of minutes of a meeting, the sole Member shall record in writing and sign a note or memorandum of any decisions taken by him. Such a note or memorandum shall be filed with the Bank and constitute sufficient evidence of such decisions for all purposes.

### **PART 5 SHARES AND DISTRIBUTIONS**

#### **Division 1 - Issue of Shares**

**64. Maximum number of shares that the Bank may issue**

Unless otherwise determined by ordinary resolution, the maximum number of shares that the Bank may issue is [10,000].

**65. Miscellaneous provisions regarding issue of shares**

- (1) Without prejudice to any special rights, privileges or restrictions for the time being attaching to any issued shares, any unissued or forfeited shares may be issued or re-issued upon such terms and conditions, and with such rights, privileges and restrictions attached thereto, whether in regard to Dividends, voting, repayment or redemption of share capital, or otherwise, as the Bank may, subject to the Ordinance, from time to time determine or, in the absence of any such determination, as the Directors shall determine.
- (2) Save as provided by contract or the Ordinance or these Articles to the contrary, all unissued shares shall be at the disposal of the Directors who may allot, grant options over, or otherwise deal with or dispose of the same to such persons, at such times, for such consideration and generally upon such terms and conditions as they shall in their absolute discretion think fit.
- (3) Subject to Division 4 of Part 5 of the Ordinance, the Bank may issue shares on terms that they are to be redeemed, or liable to be redeemed, at the option of the Bank or the Holders of the shares.
- (4) The Directors may determine the terms, conditions and manner of redemption of any shares which are issued on terms that they may be redeemed.
- (5) If the conditions of allotment of any shares provide for the whole or part of the issue price thereof to be payable by instalments, every such instalment shall, when due, be paid to the Bank by the person who for the time being and from time to time shall be the registered Holder of the shares, or his legal personal representative. The provisions of Articles 72 to 74 shall apply to such shares.

## **Division 2 - Interests in Shares**

### **66. Bank only bound by absolute interests**

- (1) Except as required by law, no person may be recognised by the Bank as holding any share on trust.
- (2) Except as required by law or these Articles, the Bank is not in any way bound by or required to recognise any interest in a share other than the Holder's absolute ownership of it and all the rights attaching to it.
- (3) Paragraph (2) applies even though the Bank has notice of the interest.

### **67. Joint Holders of shares**

Where two or more persons are registered as the Holders of any share they shall be deemed to hold the same as joint tenants with benefit of survivorship, subject to the following provisions:

- (1) the Bank shall not be bound to register more than four persons as the Holders of any share except in the case of the legal personal representatives of a deceased Member;
- (2) the joint Holders of any share shall be jointly and severally liable in respect of all payments which ought to be made in respect of such share;
- (3) on the death of any one of such joint Holders the survivor or survivors shall be the only person or persons recognised by the Bank as having any title to such share, but the Directors may require such evidence of death as they may deem fit;
- (4) any one of such joint Holders may give effectual receipts for any Dividend, bonus or return of capital payable to such joint Holders; and
- (5) the Bank shall be at liberty to treat, the person whose name stands first in the Register of Members as one of the joint Holders of any share, as solely entitled to delivery of the certificate relating to such share, or to receive notices from the Bank, or to attend or vote at general meetings of the Bank, and any notice given to such person shall be deemed notice to all the joint Holders; but any one of such joint Holders may be appointed the proxy of the persons entitled to vote on behalf of such joint Holders, and as such proxy to attend and vote at general meetings of the Bank, but if more than one of such joint Holders is present at any meeting personally or by proxy, then in accordance with Article 54 the one who is present whose name stands first in the Register of Members in respect of such shares shall alone be entitled to vote in respect thereof.

## **Division 3 - Share Certificates**

### **68. Certificates to be issued except in certain cases**

- (1) The Bank must issue each Member, free of charge, with one or more certificates in respect of the shares that the Member holds, within:-
  - (a) two months after allotment or lodgement of a proper instrument of transfer;
  - or

- (b) any other period that the conditions of issue provide.
- (2) No certificate may be issued in respect of shares of more than one class.
- (3) If more than one person holds a share, only one certificate may be issued in respect of it.

**69. Contents and execution of share certificates**

- (1) A certificate must specify:-
  - (a) in respect of how many shares and of what class the certificate is issued; and
  - (b) any distinguishing numbers assigned to them.
- (2) A certificate must be executed in accordance with the Ordinance

**70. Consolidated share certificates**

- (1) A Member may request the Bank, in writing, to replace:-
  - (a) the Member's separate certificates with a consolidated certificate; or
  - (b) the Member's consolidated certificate with two or more separate certificates representing the proportion of the shares that the Member specifies.
- (2) A consolidated certificate must not be issued unless any certificates that it is to replace have first been returned to the Bank for cancellation.
- (3) Separate certificates must not be issued unless the consolidated certificate that they are to replace has first been returned to the Bank for cancellation.

**71. Replacement share certificates**

- (1) If a certificate issued in respect of a Member's shares is defaced, damaged, lost or destroyed, the Member is entitled to be issued with a replacement certificate in respect of the same shares.
- (2) A Member exercising the right to be issued with a replacement certificate:-
  - (a) may at the same time exercise the right to be issued with a single certificate, separate certificates or a consolidated certificate;
  - (b) must return the certificate that is to be replaced to the Bank if it is defaced or damaged; and
  - (c) must comply with the conditions as to evidence, indemnity and the payment of a reasonable fee that the Directors decide.

**72. Call notices**

- (1) The Directors may from time to time serve a notice (a "call notice") on a Member, making Calls upon such Member in respect of all moneys unpaid on his shares, subject to the terms of issue of such shares.

- (2) A call notice:
  - (a) may not require a shareholder to pay a Call which exceeds the total sum unpaid on that shareholder's shares;
  - (b) must be in writing and state when and how any Call to which it relates is to be paid; and
  - (c) may permit or require the Call to be paid by instalments.
- (3) A shareholder must comply with the requirements of a call notice, but no shareholder is obliged to pay any Call before 14 clear days have passed since the notice was sent (that is, excluding the day on which the call notice is given and the day on which that 14 day period expires).
- (4) Before the Bank has received any Call due under a call notice, the Directors may:
  - (a) revoke the notice wholly or in part; or
  - (b) specify a later time for payment than is specified in the noticeby a further notice in writing to the shareholder in respect of whose shares the Call is made.

**73. Liability to pay Calls**

- (1) Liability to pay a Call is not extinguished or transferred by transferring the shares in respect of which it is required to be paid.
- (2) Joint holders of a share are jointly and severally liable to pay all Calls in respect of that share.
- (3) Subject to the terms on which shares are allotted, the directors may, when issuing shares, provide that call notices sent to the holders of those shares may require them:
  - (a) to pay Calls which are not the same; or
  - (b) to pay Calls at different times.

**74. When a call notice need not be issued**

- (1) A call notice need not be issued in respect of sums which are specified, in the terms on which a share is issued, as being payable to the Bank in respect of that share:
  - (a) on allotment;
  - (b) on the occurrence of a particular event; or
  - (c) on a date fixed by or in accordance with the terms of issue.

- (2) But if the due date for payment of such a sum has passed and it has not been paid, the holder of the share concerned is treated in all respects as having failed to comply with a call notice in respect of that sum, and is liable to the same consequences as regards the payment of interest and forfeiture.

**75. Failure to comply with call notice: automatic consequences**

- (1) If a person is liable to pay a Call and fails to do so by the call payment date:
  - (a) the directors may issue a notice of intended forfeiture to that person; and
  - (b) until the Call is paid, that person must pay the Bank interest on the Call from the call payment date at such rate as the Directors shall determine.
- (2) For the purposes of this Article, "call payment date" means the time when the call notice states that a Call is to be paid, unless the Directors give a notice in writing specifying a later date, in which case the "call payment date" is that later date.
- (3) The Directors may waive any obligation to pay interest on a Call wholly or in part.

**76. Notice of intended forfeiture**

- (1) A notice of intended forfeiture:
  - (a) may be sent in respect of any share in respect of which a Call has not been paid as required by a call notice;
  - (b) must be in writing and sent to the holder of that share or to a Transmittree entitled to it;
  - (c) must require payment of the Call and any accrued interest by a date which is not less than 14 clear days after the date of the notice (that is, excluding the day on which the notice is given and the day on which that 14 day period expires);
  - (d) must state how the payment is to be made; and
  - (e) must state that if the notice is not complied with, the shares in respect of which the Call is payable will be liable to be forfeited.

**77. Directors' power to forfeit shares**

- (1) If a notice of intended forfeiture is not complied with before the date by which payment of the Call is required in the notice of intended forfeiture, the Directors may decide that any share in respect of which such notice was given is forfeited, and the forfeiture is to include all dividends or other sums payable in respect of the forfeited shares and not paid before the forfeiture.

**78. Effect of forfeiture**

- (1) Subject to the Articles, the forfeiture of a share extinguishes:



- (a) all interests in that share, and all claims and demands against the Bank in respect of it; and
  - (b) all other rights and liabilities incidental to the share as between the person whose share it was before the forfeiture and the Bank.
- (2) Any share which is forfeited in accordance with the Articles:
- (a) is deemed to have been forfeited when the Directors decide that it is forfeited;
  - (b) is deemed to be the property of the Bank; and
  - (c) may be sold, re-allotted or otherwise disposed of as the Directors think fit.
- (3) If a person's shares have been forfeited:
- (a) the Bank must send that person notice in writing that forfeiture has occurred and record it in the Register of Members;
  - (b) that person ceases to be a shareholder in respect of those shares;
  - (c) that person must surrender the certificate for the shares forfeited to the Bank for cancellation;
  - (d) that person remains liable to the Bank for all sums payable by that person under the Articles at the date of forfeiture in respect of those shares, including any interest (whether accrued before or after the date of forfeiture); and
  - (e) the Directors may waive payment of such sums wholly or in part or enforce payment without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.
- (4) At any time before the Bank disposes of a forfeited share, the Directors may decide to cancel the forfeiture on payment of all Calls and interest due in respect of it and on such other terms as they think fit.

**79. Procedure following forfeiture**

- (1) If a forfeited share is to be disposed of by being transferred, the Bank may receive the consideration for the transfer and the Directors may authorise any person to execute the instrument of transfer.
- (2) A statement in writing by a Director or the Secretary that a share has been forfeited on a specified date:
  - (a) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share; and
  - (b) subject to compliance with any other formalities of transfer required by the Articles or by law, constitutes a good title to the share.

- (3) A person to whom a forfeited share is transferred is not bound to see to the application of the consideration (if any), nor is that person's title to the share affected by any irregularity in or invalidity of the process leading to the forfeiture or transfer of the share.
- (4) If the Bank sells a forfeited share, the person who held it before its forfeiture is entitled to receive from the Bank the net proceeds of such sale, after payment of the costs of sale and any other costs relating to the forfeiture of the share, and excluding any amount which:
  - (a) was, or would have become, payable; and
  - (b) had not, when that share was forfeited, been paid by that person in respect of that share,

but no interest is payable to such a person in respect of such proceeds, and the Bank is not required to account for any money earned on them.

**80. Lien**

- (1) The Bank shall have a first and paramount lien on every share for all moneys outstanding in respect of such share whether presently payable or not, and whether the time for the payment or discharge of the same shall have already arrived or not.
- (2) The Bank's lien on a share shall extend to all Dividends payable thereon.
- (3) The Directors may at any time either generally or in any particular case waive any lien that has arisen, or declare any share to be wholly or in part exempt from the provisions of this Article.

**81. Enforcement of the Bank's lien**

- (1) Subject to the provisions of this Article, if:
  - (a) a lien enforcement notice has been given in respect of a share; and
  - (b) the person to whom the notice was given has failed to comply with it,the Bank may sell that share in such manner as the Directors decide.
- (2) A lien enforcement notice:
  - (a) may only be given in respect of a share which is subject to the Bank's lien, in respect of which a sum is payable and the due date for payment of that sum has passed;
  - (b) must specify the share concerned;
  - (c) must be in writing and require payment of the sum payable within 14 clear days of the notice (that is, excluding the day on which the notice is given and the day on which that 14 day period expires);

- (d) must be addressed either to the holder of the share or to a Transmittree entitled to it; and
  - (e) must state the Bank's intention to sell the share if the notice is not complied with.
- (3) Where shares are sold under this Article:
- (a) the Directors may authorise any person to execute an instrument of transfer of the shares to the purchaser or a person nominated by the purchaser; and
  - (b) the transferee is not bound to see to the application of the consideration, and the transferee's title is not affected by any irregularity in or invalidity of the process leading to the sale.
- (4) The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the lien) must be applied:
- (a) first, in payment of so much of the sum for which the lien exists as was payable at the date of the lien enforcement notice; and
  - (b) secondly, to the person entitled to the shares immediately before the sale, but only after the certificate for the shares sold has been surrendered to the Bank for cancellation or an indemnity in a form reasonably satisfactory to the Directors has been given for any lost certificates, and provided that the Bank's lien shall also apply to such proceeds for any money payable in respect of the shares after the date of the lien enforcement notice.
- (5) A statement in writing by a Director or the Secretary that a share has been sold to satisfy a lien of the Bank on a date stated in the statement shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share. Such statement and the receipt of the Bank for the consideration (if any) given for the share on the sale, re-allotment or disposal thereof together with the share certificate delivered to a purchaser or allottee thereof shall (subject to the execution of a transfer if the same be required) constitute a good title to the share and the person to whom the share is sold, re-allotted or disposed of shall be registered as the Holder of the share.

#### **Division 4 - Transfer and Transmission of Shares**

##### **82. Transfer of shares**

- (1) Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the Directors, which is executed by or on behalf of both the transferor and the transferee.
- (2) Every instrument of transfer shall be lodged at the Office for registration accompanied by the certificate relating to the shares to be transferred and such other evidence as the Directors may require in relation thereto.

- (3) All instruments of transfer which have been registered shall be retained by the Bank, but save where fraud is suspected any instrument of transfer which the Directors may decline to register shall, on demand, be returned to the person depositing the same.
- (4) No fee may be charged by the Bank for registering any instrument of transfer or other document relating to or affecting the title to any share.
- (5) The Bank may retain any instrument of transfer that is registered.
- (6) The transferor remains the Holder of a share until the transferee's name is entered in the Register of Members as Holder of it.
- (7) There shall be paid to the Bank in respect of the registration of a transfer and of any Grant of Probate or Letters of Administration, Certificate of Marriage or Death, Power of Attorney or other document relating to or affecting the title to any share or for making of any entry in the Register of Members affecting the title to any share such fee (if any) as the Directors may from time to time require or prescribe.

**83. Power of Directors to refuse transfer of shares**

- (1) Without limiting Article 3(2), the Directors may refuse to register the transfer of a share if:-
  - (a) the instrument of transfer is not lodged at the Bank's Office or another place that the Directors have appointed;
  - (b) the instrument of transfer is not accompanied by the certificate for the share to which it relates, or other evidence the Directors reasonably require to show the transferor's right to make the transfer, or evidence of the right of someone other than the transferor to make the transfer on the transferor's behalf;
  - (c) the transfer is in respect of more than one class of shares; or
  - (d) a Controller who has not received the written consent of the HKMA to become the controller of the Bank;
- (2) If the Directors refuse to register the transfer of a share under paragraph (1) or Article 3(2):-
  - (a) the transferor or transferee may request a statement of the reasons for the refusal; and
  - (b) the instrument of transfer must be returned to the transferor or transferee who lodged it unless the Directors suspect that the proposed transfer may be fraudulent.
- (3) The instrument of transfer must be returned in accordance with paragraph (2)(b) together with a notice of refusal within two months after the date on which the instrument of transfer was lodged with the Bank.
- (4) If a request is made under paragraph (2)(a), the Directors must, within 28 days after receiving the request:-

- (a) send the transferor or transferee who made the request a statement of the reasons for the refusal; or
  - (b) register the transfer.
- (5) The registration of transfers may be suspended at such times and for such periods as the Directors may, in accordance with Section 632 of the Ordinance, from time to time determine and either generally or in respect of any class of shares.

**84. Transmission of shares**

If a Member dies, the Bank may only recognise the following person or persons as having any title to a share of the deceased Member:-

- (1) if the deceased Member was a joint Holder of the share, the surviving Holder or Holders of the share; and
- (2) if the deceased Member was a sole Holder of the share, the legal personal representative of the deceased Member;

but nothing herein contained shall release the estate of a deceased Holder, whether sole or joint, from any liability in respect of any share solely or jointly held by him.

**85. Transmittees' rights**

- (1) If a Transmitttee produces evidence of entitlement to the share as the Directors properly require, the Transmitttee may, subject to these Articles, choose to become the Holder of the share or to have the share transferred to another person.
- (2) The Directors have the same right to refuse or suspend the registration as they would have had if the Holder had transferred the share before the transmission.
- (3) A Transmitttee is entitled to the same Dividends and other advantages to which the Transmitttee would be entitled if the Transmitttee were the Holder of the share, except that the Transmitttee is not, before being registered as a Member in respect of the share, entitled in respect of it to exercise any right conferred by membership in relation to meetings of the Bank.
- (4) The Directors may at any time give notice requiring a Transmitttee to choose to become the Holder of the share or to have the share transferred to another person.
- (5) If the notice is not complied with within 90 days of the notice being given, the Directors may withhold payment of all Dividends, bonuses or other moneys payable in respect of the share until the requirements of the notice have been complied with.

**86. Exercise of Transmitttees' rights**

- (1) If a Transmitttee chooses to become the Holder of a share, the Transmitttee must notify the Bank in writing of the choice.
- (2) Within two months after receiving the notice, the Directors must:-
  - (a) register the Transmitttee as the Holder of the share; or

- (b) send the Transmittree a notice of refusal of registration.
- (3) If the Directors refuse registration, the Transmittree may request a statement of the reasons for the refusal.
- (4) If a request is made under paragraph (3), the Directors must, within 28 days after receiving the request:-
  - (a) send the Transmittree a statement of the reasons for the refusal; or
  - (b) register the Transmittree as the Holder of the share.
- (5) If the Transmittree chooses to have the share transferred to another person, the Transmittree must execute an instrument of transfer in respect of it.
- (6) All the limitations, restrictions and other provisions of these Articles relating to the right to transfer and the registration of transfer of shares apply to the notice under paragraph (1) or the transfer under paragraph (5), as if the transmission had not occurred and the transfer were a transfer made by the Holder of the share before the transmission.

**87. Transmittrees bound by prior notices**

If a notice is given to a Member in respect of shares and a Transmittree is entitled to those shares, the Transmittree is bound by the notice if it was given to the Member before the Transmittree's name has been entered in the Register of Members.

**Division 5 - Alteration and Reduction of Share Capital,  
Share Buy-backs and Allotment of Shares**

**88. Alteration of share capital**

The Bank may by ordinary resolution increase its share capital, capitalise its profits, allot and issue bonus shares, convert its shares into a large or smaller number of shares, or cancel shares as set out in section 170(2)(a), (b), (c), (d), (e) and (f)(i) of the Ordinance, and section 170(3), (4), (5), (6), (7) and (8) of the Ordinance applies accordingly.

**89. Reduction of share capital**

The Bank may by special resolution reduce its share capital in accordance with Division 3 of Part 5 of the Ordinance.

**90. Share buy-backs**

The Bank may buy back its own shares (including any redeemable shares) in accordance with Division 4 of Part 5 of the Ordinance.

**91. Allotment of shares**

The Directors must not exercise any power conferred on them to allot shares in the Bank without the prior approval of the Bank by resolution if the approval is required by section 140 of the Ordinance.

## **Division 6 - Distributions**

### **92. Procedure for declaring Dividends**

- (1) The Bank may by ordinary resolution declare Dividends, but a Dividend must not exceed the amount recommended by the Directors.
- (2) The Directors may from time to time pay the Members interim Dividends that appear to the Directors to be justified by the profits of the Bank.
- (3) A Dividend may only be paid out of the profits in accordance with Part 6 of the Ordinance.
- (4) Unless the Members' resolution to declare or Directors' decision to pay a Dividend, or the terms on which shares are issued, specify otherwise, it must be paid by reference to each Member's holding of shares on the date of the resolution or decision to declare or pay it.
- (5) The Directors may retain any Dividend or other monies payable on or in respect of a share on which the Bank has a lien, and may apply the same in or towards satisfaction of the debts and liabilities in respect of which the lien exists.
- (6) Before recommending any Dividend, the Directors may set aside out of the profits of the Bank any sums they think fit as reserves.
- (7) The Directors may—
  - (a) apply the reserves for any purpose to which the profits of the Bank may be properly applied; and
  - (b) pending such an application, employ the reserves in the business of the Bank or invest them in any investments (other than shares of the Bank) that they think fit.
- (8) The Directors may also without placing the sums to reserve carry forward any profits that they think prudent not to divide.

### **93. Payment of Dividends and other distributions**

If a Dividend or other sum that is a distribution is payable in respect of a share, it must be paid by one or more of the following means—

- (a) transfer to a bank account specified by the Distribution Recipient either in writing or as the Directors decide;
- (b) sending a cheque made payable to the Distribution Recipient by post to the Distribution Recipient at the Distribution Recipient's registered address (if the Distribution Recipient is a holder of the share), or (in any other case) to an address specified by the Distribution Recipient either in writing or as the Directors decide; or
- (c) any other means of payment as the Directors agree with the Distribution Recipient either in writing or as the Directors decide.

94. **No interest on distributions**

The Bank may not pay interest on any Dividend or other sum payable in respect of a share unless otherwise provided by—

- (a) the terms on which the share was issued; or
- (b) the provisions of another agreement between the Holder of the share and the Bank.

95. **Unclaimed distributions**

- (1) If Dividends or other sums are payable in respect of shares and they are not claimed after having been declared or become payable, they may be invested or made use of by the Directors for the benefit of the Bank until claimed.
- (2) The payment of the Dividends or other sums into a separate account does not make the Bank a trustee in respect of it.
- (3) A Distribution Recipient is no longer entitled to a dividend or other sum and it ceases to remain owing by the Bank, if—
  - (a) twelve years have passed from the date on which the dividend or other sum became due for payment; and
  - (b) the Distribution Recipient has not claimed it.

96. **Non-cash distributions**

- (1) Subject to the terms of issue of the share in question, the Bank may, by ordinary resolution on the recommendation of the Directors, decide to pay all or part of a Dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any Bank).
- (2) For paying a non-cash distribution, the Directors may make whatever arrangements they think fit, including, if any difficulty arises regarding the distribution—
  - (a) fixing the value of any assets;
  - (b) paying cash to any Distribution Recipient on the basis of that value in order to adjust the rights of recipients; and
  - (c) vesting any assets in trustees.

97. **Waiver of distributions**

- (1) Distribution Recipients may waive their entitlement to a Dividend or other distribution payable in respect of a share by executing a deed to that effect.
- (2) If, however, the share has more than one Holder or more than one person is entitled to the share (whether by reason of the death or bankruptcy of one or more joint Holders, or otherwise), the deed is not effective unless it is expressed to be executed by all the Holders or other persons entitled to the share.



### **Division 7 - Capitalisation of Profits**

#### **98. Capitalisation of profits**

- (1) The Bank may by ordinary resolution on the recommendation of the Directors capitalise profits.
- (2) If the capitalisation is to be accompanied by the issue of shares or debentures, the Directors may apply the sum capitalised in the proportions in which the Members would be entitled if the sum was distributed by way of Dividend.
- (3) To the extent necessary to adjust the rights of the Members among themselves if shares or debentures become issuable in fractions, the Directors may make any arrangements they think fit, including the issuing of fractional certificates or the making of cash payments or adopting a rounding policy.

## **PART 6 MISCELLANEOUS PROVISIONS**

### **Division 1 - Communications to and by Bank**

#### **99. Means of communication to be used**

- (1) Subject to these Articles, anything sent or supplied by or to the Bank under these Articles may be sent or supplied in any way in which Part 18 of the Ordinance provides for documents or information to be sent or supplied by or to the Bank for the purposes of the Ordinance.
- (2) Subject to these Articles, any notice or document to be sent or supplied to a Director in connection with the taking of decisions by Directors may also be sent or supplied by the means by which that Director has asked to be sent or supplied with such a notice or document for the time being.
- (3) A Director may agree with the Bank that notices or documents sent to that Director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

### **Division 2 - Administrative Arrangements**

#### **100. No right to inspect accounts and other records**

A person is not entitled to inspect any of the Bank's accounting or other records or documents merely because of being a Member, unless the person is authorised to do so by:-

- (1) an enactment;
- (2) an order under section 740 of the Ordinance;
- (3) the Directors; or
- (4) an ordinary resolution of the Bank.

101. **Auditor's insurance**

- (1) The Directors may decide to purchase and maintain insurance, at the expense of the Bank, for an Auditor of the Bank, or an auditor of an Associated Company of the Bank, against: -
  - (a) any liability to any person attaching to the Auditor in connection with any negligence, default, breach of duty or breach of trust (except for fraud) occurring in the course of performance of the duties of Auditor in relation to the Bank or Associated Company (as the case may be); or
  - (b) any liability incurred by the Auditor in defending any proceedings (whether civil or criminal) taken against the Auditor for any negligence, default, breach of duty or breach of trust (including fraud) occurring in the course of performance of the duties of Auditor in relation to the Bank or Associated Company (as the case may be).
- (2) In this Article, a reference to performance of the duties of Auditor includes the performance of the duties specified in section 415(6)(a) and (b) of the Ordinance.

102. **Winding up**

- (1) If the Bank is wound up and a surplus remains after the payment of debts proved in the winding up, the liquidator: -
  - (a) may, with the required sanction, divide amongst the Members in specie or kind the whole or any part of the assets of the Bank (whether they consist of property of the same kind or not) and may, for this purpose, set a value the liquidator thinks fair on any property to be so divided; and
  - (b) may determine how the division is to be carried out between the Members or different classes of Members.
- (2) The liquidator may, with the required sanction, vest the whole or part of those assets in trustees on trust for the benefit of the contributories that the liquidator, with the required sanction, thinks fit, but a Member must not be compelled to accept any shares or other securities on which there is any liability.
- (3) In this Article: -

*required sanction* means the sanction of a special resolution of the Bank and any other sanction required by the Ordinance.