

公 共 啟 事
PUBLIC NOTICES

《中信嘉華銀行有限公司 (合併)
條例草案》

CITIC KA WAH BANK LIMITED
(MERGER) BILL

《中信嘉華銀行有限公司(合併)條例草案》

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本條例草案

旨在

就中信嘉華銀行有限公司的業務轉歸香港華人銀行有限公司一事，以及就其他有關事宜訂定條文。

弁言

鑑於——

- (a) CITIC Ka Wah Bank Limited 中信嘉華銀行有限公司(下稱“中信嘉華銀行”)是根據香港法律成立、註冊辦事處設於香港的公司；該公司是根據《銀行業條例》(第155章)領有牌照的銀行，在香港及其他地方經營銀行業務；
- (b) The Hong Kong Chinese Bank, Limited (香港華人銀行有限公司)(下稱“香港華人銀行”)是根據香港法律成立、註冊辦事處設於香港的公司；該公司是根據《銀行業條例》(第155章)領有牌照的銀行，在香港經營銀行業務；
- (c) 香港華人銀行是中信嘉華銀行的全資附屬公司；
- (d) 為更妥善經營中信嘉華銀行及香港華人銀行的業務，宜將上述兩間銀行各自的業務合併，而該項合併應以將中信嘉華銀行的業務移轉予香港華人銀行的方式進行；及
- (e) 考慮到合約關係及其他法律關係對中信嘉華銀行所經營的業務的影響程度，宜藉本條例將上述業務移轉予香港華人銀行，使中信嘉華銀行及香港華人銀行各自業務的經營及其連續性不受干擾。

由立法會制定。

A BILL

To

Provide for the vesting in The Hong Kong Chinese Bank, Limited of the undertaking of CITIC Ka Wah Bank Limited and for other related purposes.

Preamble

WHEREAS—

- (a) CITIC Ka Wah Bank Limited 中信嘉華銀行有限公司 (hereinafter called “CITIC Ka Wah Bank”) is a company incorporated under the laws of Hong Kong having its registered office in Hong Kong and is a bank licensed under the Banking Ordinance (Cap. 155) carrying on the business of banking in Hong Kong and elsewhere;
- (b) The Hong Kong Chinese Bank, Limited (香港華人銀行有限公司) (hereinafter called “Hongkong Chinese Bank”) is a company incorporated under the laws of Hong Kong having its registered office in Hong Kong and is a bank licensed under the Banking Ordinance (Cap. 155) carrying on the business of banking in Hong Kong;
- (c) Hongkong Chinese Bank is a wholly owned subsidiary of CITIC Ka Wah Bank;
- (d) for the better conduct of the business of CITIC Ka Wah Bank and Hongkong Chinese Bank, it is expedient that their respective undertakings be merged and that such merger should occur by means of a transfer of the undertaking of CITIC Ka Wah Bank to Hongkong Chinese Bank; and
- (e) in view of the extent of the contractual and other legal relationships affecting the conduct of the undertaking of CITIC Ka Wah Bank, it is expedient that the said undertaking be transferred to Hongkong Chinese Bank by this Ordinance without interference with the conduct and continuity of the respective businesses of CITIC Ka Wah Bank and Hongkong Chinese Bank.

Enacted by the Legislative Council.

1. 簡稱

本條例可引稱為《中信嘉華銀行有限公司(合併)條例》。

2. 釋義

(1) 在本條例中，除所述事項或文意另有所指外——

“公司註冊處處長”(Registrar of Companies)指根據《公司條例》(第32章)第303條委任的公司註冊處處長；

“中信嘉華銀行”(CITIC Ka Wah Bank)指 CITIC Ka Wah Bank Limited 中信嘉華銀行有限公司；

“私隱專員”(Privacy Commissioner)指根據《個人資料(私隱)條例》(第486章)第5(1)條設立的個人資料私隱專員；

“抵押權益”(security interest)包括按揭或押記(不論是法律上或衡平法上的按揭或押記，並包括轉押)、債權證、匯票、承付票、擔保、留置權、質押(不論是實有的或法律構定的)、押貨預支、作為抵押的轉讓、彌償、抵銷權、無效資產安排、協議或承諾(不論是否以書面形式作出)或其他用作保證付款或清償債項或解除法律責任(不論是現存的或是將來的、實有的或是或有的)的方式(全部根據適用的法律而訂立、批出、產生或存續)；

“法律責任”(liabilities)包括每一種類的責任及義務(不論是現存的或是將來的、實有的或是或有的)；

“客戶”(customer)指任何在中信嘉華銀行開有銀行帳戶，或與該銀行有其他事務來往、交易或安排的人；

“指定日期”(appointed day)指依據第3條指定的日期；

“香港華人銀行”(Hongkong Chinese Bank)指 The Hong Kong Chinese Bank, Limited (香港華人銀行有限公司)；

“保障資料原則”(data protection principles)指《個人資料(私隱)條例》(第486章)附表1列明的保障資料原則；

“除外財產及法律責任”(excluded property and liabilities)指——

- (a) 中信嘉華銀行的法團印章；
- (b) 中信嘉華銀行依據《公司條例》(第32章)須保存的文件；
- (c) 由中信嘉華銀行實益擁有並以繳足股款的股份表明的香港華人銀行已發行股本；
- (d) 在取得香港華人銀行的同意下，由中信嘉華銀行的董事局藉一項或多於一項的決議而在指定日期當日或之前指明的中信嘉華銀行的其他財產及法律責任；

1. Short title

This Ordinance may be cited as the CITIC Ka Wah Bank Limited (Merger) Ordinance.

2. Interpretation

(1) In this Ordinance, unless the subject or context otherwise requires—
“appointed day” (指定日期) means such day as may be appointed pursuant to section 3;

“CITIC Ka Wah Bank” (中信嘉華銀行) means CITIC Ka Wah Bank Limited 中信嘉華銀行有限公司；

“customer” (客戶) means any person having a banking account or other dealing, transaction or arrangement with CITIC Ka Wah Bank;

“data protection principles” (保障資料原則) means the data protection principles set out in Schedule 1 to the Personal Data (Privacy) Ordinance (Cap. 486);

“excluded property and liabilities” (除外財產及法律責任) means—

- (a) the common seal of CITIC Ka Wah Bank;
- (b) documents required to be kept by CITIC Ka Wah Bank pursuant to the Companies Ordinance (Cap. 32);
- (c) the issued share capital of Hongkong Chinese Bank represented by the paid-up shares beneficially owned by CITIC Ka Wah Bank;
- (d) subject to the agreement of Hongkong Chinese Bank, such other property and liabilities of CITIC Ka Wah Bank as may on or before the appointed day be specified by way of a resolution or resolutions of the board of directors of CITIC Ka Wah Bank;

“existing” (現有) means existing, outstanding or in force immediately before the appointed day;

“Hongkong Chinese Bank” (香港華人銀行) means The Hong Kong Chinese Bank, Limited (香港華人銀行有限公司)；

“liabilities” (法律責任) includes duties and obligations of every description (whether present or future, actual or contingent);

“Privacy Commissioner” (私隱專員) means the Privacy Commissioner for Personal Data established under section 5(1) of the Personal Data (Privacy) Ordinance (Cap. 486);

“property” (財產) means property and assets of every description wheresoever situate and rights of every description (whether present or future, actual or contingent), and includes property held on trust or in a fiduciary capacity and security interests, benefits and powers of every description;

“Registrar of Companies” (公司註冊處處長) means the Registrar of Companies appointed under section 303 of the Companies Ordinance (Cap. 32);

“財產”(property)指每一種類的財產及資產(不論位於何處),以及每一種類的權利(不論是現存的或是將來的、實有的或是或有的),並包括以信託方式或以受信人身分持有的財產以及每一種類的抵押權益、利益及權力;

“現有”(existing)指緊接指定日期之前存在、未完結或有效者;

“業務”(undertaking)指中信嘉華銀行任何性質的業務經營及所有現有財產、儲備金及法律責任,但除外財產及法律責任則除外;

“遺囑”(will)包括遺囑更改附件及其他遺囑性質的文件。

(2) 在本條例中凡提述中信嘉華銀行的財產或法律責任之處,即為提述中信嘉華銀行當其時(不論是以受益人或任何受信人的身分)有權享有的財產或負上的法律責任,不論該等財產或法律責任位於何處或在何處產生,以及中信嘉華銀行能否將其移轉或轉讓,亦不論中信嘉華銀行是根據香港法律抑或香港以外任何國家、地區或地方的法律而有權享有該等財產或負上該等法律責任。

(3) 任何政治體、法團及其他人的權利如受本條例任何條文影響,則該政治體、法團或其他人須當作於本條例中述及。

3. 公告指定日期

(1) 中信嘉華銀行的董事可就本條例而指定一個日期。

(2) 中信嘉華銀行及香港華人銀行須於憲報刊登聯合公告,述明如此指定的日期。但如因任何原因該日期結果並非指定日期,則中信嘉華銀行及香港華人銀行須於憲報刊登聯合公告表明此事,並須再次於憲報刊登聯合公告,述明另一個如此指定的日期或已過去的指定日期(視屬何情況而定)。

4. 更改名稱及撤銷銀行牌照

(1) 在指定日期當日,憑藉本條例——

(a) 中信嘉華銀行的名稱須按照本條更改為“CITIC International Financial Holdings Limited 中信國際金融控股有限公司”;

“security interest”(抵押權益) includes a mortgage or charge (whether legal or equitable and including any sub-mortgage), debenture, bill of exchange, promissory note, guarantee, lien, pledge (whether actual or constructive), hypothecation, assignment by way of security, indemnity, right of set-off, flawed asset arrangement, agreement or undertaking (whether in writing or not) or other means (in each case made, granted, arising or subsisting under any applicable law) of securing payment or discharge of a debt or liability (whether present or future, actual or contingent);

“undertaking”(業務) means the business and all existing property, reserves and liabilities of CITIC Ka Wah Bank of whatsoever nature other than the excluded property and liabilities;

“will”(遺囑) includes a codicil and any other testamentary writing.

(2) Any reference in this Ordinance to property or liabilities of CITIC Ka Wah Bank is a reference to property or liabilities to which CITIC Ka Wah Bank is for the time being entitled or subject (whether beneficially or in any fiduciary capacity), wherever such property or liabilities are situated or arise and whether or not capable of being transferred or assigned by CITIC Ka Wah Bank, and whether CITIC Ka Wah Bank is entitled to such property or subject to such liabilities under the laws of Hong Kong or under the laws of any country, territory or place outside Hong Kong.

(3) Any body politic or corporate and any other person or persons whose rights are affected by any of the provisions of this Ordinance shall be deemed to be mentioned herein.

3. Notice of appointed day

(1) The directors of CITIC Ka Wah Bank may appoint a day for the purposes of this Ordinance.

(2) CITIC Ka Wah Bank and Hongkong Chinese Bank shall give joint notice in the Gazette stating the day so appointed save that, in the event that such day proves not to be the appointed day for any reason, CITIC Ka Wah Bank and Hongkong Chinese Bank shall give joint notice in the Gazette to that effect and shall again give joint notice in the Gazette stating the next day so appointed or, as the case may be, the day which was the appointed day.

4. Changes of name and revocation of banking licence

(1) On the appointed day, by virtue of this Ordinance——

(a) the name of CITIC Ka Wah Bank shall, in accordance with this section, be changed to “CITIC International Financial Holdings Limited 中信國際金融控股有限公司”;

(b) 香港華人銀行的名稱須按照本條更改為“CITIC Ka Wah Bank Limited 中信嘉華銀行有限公司”；及

(c) 中信嘉華銀行的銀行牌照須按照《銀行業條例》(第155章)第V部，自金融管理專員指定的日期起撤銷，而該日期須在憲報刊登。

(2) 中信嘉華銀行須在指定日期不少於7日前，將本條例一份文本送交公司註冊處處長。

(3) 公司註冊處處長須依據本條例，將依據第(2)款向其送交的本條例文本登記，並須在指定日期當日——

(a) 將中信嘉華銀行的新名稱記入登記冊內，以取代舊名稱，並向中信嘉華銀行發出關於更改名稱的公司註冊證書一份，證書上須述明中信嘉華銀行的新名稱；及

(b) 將香港華人銀行的新名稱記入登記冊內，以取代舊名稱，並向香港華人銀行發出關於更改名稱的公司註冊證書一份，證書上須述明香港華人銀行的新名稱。

5. 業務轉歸香港華人銀行

(1) 在指定日期當日，有關業務憑藉本條例而無需其他作為或契據，移轉予及轉歸香港華人銀行，以便香港華人銀行繼承整項業務，猶如香港華人銀行與中信嘉華銀行在各方面而言在法律上均是同一人一樣。

(2) 屬業務組成部分的財產及法律責任如位於香港以外的國家、地區或地方，而其移轉及轉歸是受香港法律以外的規定所管限，則倘若香港華人銀行提出要求，中信嘉華銀行須在指定日期後，在切實可行範圍內，盡快採取各種必要行動，以確保該財產及法律責任有效地移轉予及轉歸香港華人銀行，而在作出上述移轉及轉歸之前，中信嘉華銀行須以受託人身分絕對地代香港華人銀行持有該財產。

6. 信託財產及遺囑

(1) 任何財產如在緊接指定日期之前由中信嘉華銀行持有，不論是單獨持有或聯同其他人持有，亦不論是以信託契據、授產安排、契諾、協議、遺囑或其他文書的受託人或保管受託人身分(不論原先是否如此獲得委任，亦不論是經簽署或蓋章或藉任

(b) the name of Hongkong Chinese Bank shall, in accordance with this section, be changed to “CITIC Ka Wah Bank Limited 中信嘉華銀行有限公司”； and

(c) the banking licence of CITIC Ka Wah Bank shall, in accordance with Part V of the Banking Ordinance (Cap. 155), be revoked on and from a day to be appointed by the Monetary Authority which day shall be published in the Gazette.

(2) Not later than 7 days before the appointed day, CITIC Ka Wah Bank shall deliver to the Registrar of Companies a copy of this Ordinance.

(3) The Registrar of Companies shall, pursuant to this Ordinance, register the copy of the Ordinance delivered to him pursuant to subsection (2) and on the appointed day—

(a) shall enter the new name of CITIC Ka Wah Bank in the register in place of its former name and issue to CITIC Ka Wah Bank a certificate of incorporation on change of name stating CITIC Ka Wah Bank's new name; and

(b) shall enter the new name of Hongkong Chinese Bank in the register in place of its former name and issue to Hongkong Chinese Bank a certificate of incorporation on change of name stating Hongkong Chinese Bank's new name.

5. Vesting of the undertaking in Hongkong Chinese Bank

(1) On the appointed day the undertaking shall, by virtue of this Ordinance and without further act or deed, be transferred to, and vest in, Hongkong Chinese Bank to the intent that Hongkong Chinese Bank shall succeed to the whole undertaking as if in all respects Hongkong Chinese Bank were the same person in law as CITIC Ka Wah Bank.

(2) Where the transfer and vesting of any property and liabilities situate in any country, territory or place outside Hong Kong and forming part of the undertaking is governed otherwise than by the laws of Hong Kong, CITIC Ka Wah Bank shall, if Hongkong Chinese Bank so requires, so soon as is practicable after the appointed day, take all necessary steps for securing the effective transfer and vesting thereof in Hongkong Chinese Bank and, pending such transfer and vesting, CITIC Ka Wah Bank shall hold any such property in trust absolutely for Hongkong Chinese Bank.

6. Trust property and wills

(1) Any property vested in Hongkong Chinese Bank by virtue of this Ordinance which immediately before the appointed day was held by CITIC Ka Wah Bank, whether alone or jointly with any other person, as trustee or

何法庭的命令或以其他方式委任)持有,或以死者的遺囑執行人或遺產管理人的身分,或藉法庭的命令委任的司法受託人身分,或其他受信人身分持有,並憑藉本條例轉歸香港華人銀行,則自指定日期起,該財產即由香港華人銀行單獨持有或聯同上述其他人持有(視屬何情況而定),而香港華人銀行具有有關信託所給予中信嘉華銀行的同一身分,並擁有和受限於對該等信託適用的權力、條文及法律責任。

(2) 自指定日期起任何組成業務部分的財產經變為歸屬具有第(1)款所提述受信人身分的中信嘉華銀行所根據或憑藉的現有文書或法庭命令(如屬遺囑,則包括遺囑認證的授予書),以及訂明中信嘉華銀行因以該受信人身分提供服務而獲付或留存酬金的上述文書或命令的條文,或任何現有合約或安排,在文意許可的情況下,須在猶如其中提述中信嘉華銀行之處(但不包括對中信嘉華銀行的條款及條件或收費率的提述(不論如何措詞,亦不論是明訂或隱含)),以提述香港華人銀行取代的情況下解釋和具有效力。但本款並不阻止香港華人銀行按照有關文書或命令的條款而更改應予支付的酬金或收費率。

(3) 在指定日期前訂立但在指定日期前未在香港申領遺囑認證的遺囑,以及任何在指定日期當日或之後訂立的組成業務部分的遺囑,如委任中信嘉華銀行以受託人的身分作為財產的執行人、受託人或收受人,則自指定日期起,該遺囑須在猶如其中提述中信嘉華銀行為該執行人、受託人或收受人或其他與該委任有關之處(但不包括對中信嘉華銀行的條款及條件或收費率的提述(不論如何措詞,亦不論是明訂或隱含)),以提述香港華人銀行取代的情況下解釋和具有效力。

(4) 任何遺囑性質的贈與均不得僅因本條例任何條文的施行而廢止。

7. 補充條文

在不影響本條例其他條文的一般性原則下,除非本條例其他條文有相反效力,否則本條下述條文(關於除外財產及法律責任除外)具有效力——

custodian trustee of any trust deed, settlement, covenant, agreement, will or other instrument (whether originally so appointed or not, and whether appointed under hand or seal, or by order of any court or otherwise), or as executor of the will, or administrator of the estate, of a deceased person or as judicial trustee appointed by order of any court, or in any other fiduciary capacity, shall, on and from the appointed day, be held by Hongkong Chinese Bank alone or, as the case may be, jointly with such other person, in the same capacity upon the trusts, and with and subject to the powers, provisions and liabilities, applicable thereto respectively.

(2) Any existing instrument or order of any court under or by virtue of which any property forming part of the undertaking became vested in CITIC Ka Wah Bank, in any such fiduciary capacity as is referred to in subsection (1) (including in the case of a will any grant of probate thereof), and any provision in such instrument or order, or any existing contract or arrangement, for the payment to, or retention by, CITIC Ka Wah Bank of remuneration for its services in any such fiduciary capacity, shall, on and from the appointed day, be construed and have effect, so far as the context permits, as if for any reference therein to CITIC Ka Wah Bank not being a reference (however worded and whether express or implied) to terms and conditions of, or to a scale of fees of, CITIC Ka Wah Bank, there were substituted a reference to Hongkong Chinese Bank provided always that this subsection shall not prevent Hongkong Chinese Bank from varying the remuneration or scale of fees payable in accordance with the terms of the relevant instrument or order.

(3) Any will made before the appointed day which has not been proved in Hong Kong before the appointed day, and any will made on or after the appointed day, being a will forming part of the undertaking which appoints CITIC Ka Wah Bank to be an executor, trustee or recipient of any property as trustee, shall, on and from the appointed day, be construed and have effect as if for any reference therein to CITIC Ka Wah Bank as such executor, trustee or recipient or otherwise in connection with such appointment, not being a reference (however worded and whether express or implied) to terms and conditions of, or to a scale of fees of, CITIC Ka Wah Bank, there were substituted a reference to Hongkong Chinese Bank.

(4) No testamentary gift shall be deemed by reason only of the operation of any of the provisions of this Ordinance.

7. Supplementary provisions

Without prejudice to the generality of any other provision of this Ordinance but subject to any provision of this Ordinance to the contrary effect, the following provisions of this section shall have effect other than in relation to the excluded property and liabilities—

- (a) 中信嘉華銀行(不論單獨或聯同其他人,亦不論以主事人或代理人的身分或以書面或其他形式)訂立、參與訂定、接獲、發出或被指明為收件人的所有現有合約、協議、保險單、認購權文件、約務更替文件、證明書、裁決、批地文件、轉易書、契據、租契、特許、通知、許可證、擔保、授予抵押權益或包含抵押權益的文件、債權證明書、彌償、委託、指示及其他文書及承諾,自指定日期起,猶如屬以下情況下而解釋和具有效力——

- (i) 當事一方為香港華人銀行,而非中信嘉華銀行;
 - (ii) 凡提述中信嘉華銀行之處(不論如何措詞,亦不論是明訂或隱含),就須在指定日期當日或以後辦理的事情而言,均以提述香港華人銀行取代;及
 - (iii) 凡提述中信嘉華銀行董事或任何一名董事、高級人員或僱員之處(不論如何措詞,亦不論是明訂或隱含),就須在指定日期當日或以後辦理的事情而言,即為提述香港華人銀行的董事,或香港華人銀行為該目的而委任的董事、高級人員或僱員(視情況所需而定);或如無上述委任,則為提述身分與前述的董事、高級人員或僱員最為接近的香港華人銀行董事、高級人員或僱員。
- (b) 除第17條另有規定外,(a)(ii)段適用於法定條文、任何中信嘉華銀行並非立約一方的現有合約的條文,以及其他現有文件(合約及遺囑除外)的條文,一如該等條文適用於該段所適用的合約。
- (c) 中信嘉華銀行與客戶之間的任何帳戶,須在指定日期當日移轉予香港華人銀行,並成為香港華人銀行與該客戶之間的帳戶,規限該帳戶的條件和附帶條件與先前的相同;就所有目的而言,該帳戶須當作並未間斷的同一帳戶;中信嘉華銀行(不論單獨或聯同其他人,亦不論以主事人或代理人的身分或以書面或其他形式)訂立、參與訂定、接獲、發出或被指明為收件人的所有現有合約、協議、保險單、認購權文件、約務更替文件、證明書、裁決、批地文件、轉易書、契據、租契、特許、通

- (a) All existing contracts, agreements, insurance policies, options, novations, certificates, awards, land grants, conveyances, deeds, leases, licences, notices, permits, guarantees, documents granting or comprising any security interest, bonds, indemnities, mandates, instructions and other instruments and undertakings entered into by, made with, given to or by or addressed to CITIC Ka Wah Bank (whether alone or with any other person and whether as principal or agent and whether in writing or not), shall be construed and have effect on and from the appointed day as if—

- (i) Hongkong Chinese Bank had been a party thereto instead of CITIC Ka Wah Bank;
 - (ii) for any reference (however worded and whether express or implied) to CITIC Ka Wah Bank there were substituted, as respects anything falling to be done on or after the appointed day, a reference to Hongkong Chinese Bank; and
 - (iii) any reference (however worded and whether express or implied) to the directors or to any director, officer or employee of CITIC Ka Wah Bank were, as respects anything falling to be done on or after the appointed day, a reference to the directors of Hongkong Chinese Bank or, as the case may require, to such director, officer or employee of Hongkong Chinese Bank as Hongkong Chinese Bank may appoint for that purpose or, in default of appointment, to the director, officer or employee of Hongkong Chinese Bank who corresponds as nearly as may be to the first-mentioned director, officer or employee.
- (b) Paragraph (a)(ii) shall, subject to the provisions of section 17, apply to any statutory provision, to any provision of any existing contract to which CITIC Ka Wah Bank was not a party and to any provision of any other existing document (not being a contract or a will) as they apply to a contract to which that paragraph applies.
- (c) Any account between CITIC Ka Wah Bank and a customer shall, on the appointed day, be transferred to Hongkong Chinese Bank and become an account between Hongkong Chinese Bank and such customer subject to the same conditions and incidents as theretofore; and such account shall be deemed for all purposes to be a single continuing account; and any existing contracts, agreements, insurance policies, options, novations, certificates, awards, land grants, conveyances, deeds, leases, licences, notices, permits, guarantees, documents granting or comprising any security interest, bonds, indemnities, mandates,

知、許可證、擔保、授予抵押權益或包含抵押權益的文件、債權證明書、彌償、委託、指示及其他文書及承諾，自指定日期起，須在猶如屬以下情況下解釋和具有效力：凡提述中信嘉華銀行與客戶之間的上述帳戶（不論措詞如何，亦不論是明訂或隱含），就須在指定日期當日或以後辦理的事情而言，在文意許可的情況下，均以提述香港華人銀行與該客戶之間上述並未間斷的帳戶取代：

但本條例並不影響香港華人銀行或任何客戶更改持有帳戶的條件或附帶條件的權利。

- (d) 向中信嘉華銀行或由中信嘉華銀行發出的（不論是單獨或與另一人共同接獲或發出）現有指示、命令、指令、委託、授權書、授權、承諾或同意（不論是否以書面作出，亦不論是否與帳戶有關），自指定日期起，猶如是向香港華人銀行或由香港華人銀行發出，或向香港華人銀行連同該另一人發出，或由香港華人銀行連同該另一人共同發出（視屬何情況而定）而適用和具有效力。
- (e) 要求中信嘉華銀行兌現的或由中信嘉華銀行接獲、承兌或背書的，又或須於中信嘉華銀行的任何營業地點支付的可流轉票據或付款指令票據，無論是在指定日期之前、當日或之後要求中信嘉華銀行兌現，或在指定日期之前、當日或之後接獲、承兌或背書，自指定日期起，均在猶如已要求香港華人銀行兌現，或已由香港華人銀行接獲、承兌或背書，又或須於香港華人銀行的同一營業地點支付的情況下，具有同樣效力。
- (f) 中信嘉華銀行以受寄人身分對任何文件、紀錄、貨物或其他物件的保管，須在指定日期當日移交香港華人銀行，而中信嘉華銀行根據關乎上述文件、紀錄、貨物或物件的委託保管合約而具有的權利及義務，須在該日成為香港華人銀行的權利及義務。
- (g) (i) 在緊接指定日期之前由中信嘉華銀行或該銀行的代名人、代理人或受託人持有而用作保證就任何法律責任付款或解除任何法律責任的抵押權益，自指定日期起，須由香港華人銀行持有，或由上述代名

instructions and other instruments and undertakings entered into by, made with, given to or by or addressed to CITIC Ka Wah Bank (whether alone or with any other person and whether as principal or agent and whether in writing or not), shall be construed and have effect on and from the appointed day as if any reference (however worded and whether express or implied) to such account between CITIC Ka Wah Bank and a customer there were substituted, as respects anything falling to be done on or after the appointed day, and so far as the context permits, a reference to the continuing account between Hongkong Chinese Bank and such customer:

Provided that nothing in this Ordinance shall affect any right of Hongkong Chinese Bank or of any customer to vary the conditions or incidents subject to which any account is kept.

- (d) Any existing instruction, order, direction, mandate, power of attorney, authority, undertaking or consent (whether in writing or not and whether or not in relation to an account) given to or by CITIC Ka Wah Bank, either alone or jointly with another person, shall apply and have effect, on and from the appointed day, as if given to or by Hongkong Chinese Bank or, as the case may be, to or by Hongkong Chinese Bank jointly with such other person.
- (e) Any negotiable instrument or order for payment of money drawn on, or given to, or accepted or endorsed by, CITIC Ka Wah Bank, or payable at any place of business of CITIC Ka Wah Bank, whether so drawn, given, accepted or endorsed before, on or after the appointed day, shall have the same effect on and from the appointed day, as if it had been drawn on, or given to, or accepted or endorsed by Hongkong Chinese Bank, or were payable at the same place of business of Hongkong Chinese Bank.
- (f) The custody of any document or record, goods or other thing held by CITIC Ka Wah Bank as bailee shall pass to Hongkong Chinese Bank on the appointed day, and the rights and obligations of CITIC Ka Wah Bank under any contract of bailment relating to any such document or record, goods or thing shall on that day become rights and obligations of Hongkong Chinese Bank.
- (g) (i) Any security interest held immediately before the appointed day by CITIC Ka Wah Bank, or by a nominee or agent of or trustee for CITIC Ka Wah Bank, as security for the payment or discharge of any liability shall, on and from the appointed day, be held by, or, as the case may require, by

人、代理人或受託人(視情況所需而定)為香港華人銀行持有,並須供香港華人銀行(不論是為該銀行本身的利益,或是為其他人的利益)用作保證就該法律責任付款或解除該法律責任的抵押權益。

- (ii) 就按照本條例的條文轉歸或當作轉歸香港華人銀行的抵押權益及其作為保證的法律責任而言,香港華人銀行所享有的權利及優先權,以及規限該銀行的義務及附帶條件,與中信嘉華銀行如繼續持有該抵押權益本來會享有的權利及優先權及本來會規限中信嘉華銀行的義務及附帶條件一樣。
- (iii) 在不影響第(ii)節的一般性的原則下,如中信嘉華銀行與香港華人銀行之間有任何現有法律責任存續,而中信嘉華銀行或香港華人銀行,或兩者其中之一的代名人、代理人或受託人就該法律責任持有抵押權益,則為強制執行或將該抵押權益變現的目的,即使有關業務歸屬香港華人銀行,該法律責任仍須當作繼續有效。
- (iv) 第(i)、(ii)或(iii)節所提述並擴及適用於未來貸款或法律責任的抵押權益,自指定日期起,須由香港華人銀行(不論是為該銀行本身的利益,或是為其他人的利益)作為保證未來貸款及法律責任獲得償付或解除的抵押權益,其可供使用的範圍及方式,在各方面而言均與在緊接該日之前,其作為保證中信嘉華銀行或香港華人銀行的未來貸款獲得償付或法律責任獲得解除的抵押權益一樣。
- (v) 即使有第(i)節的規定,如任何抵押權益在緊接指定日期之前,不會供香港華人銀行用作保證就任何對其負有的法律責任付款或解除該法律責任,或不會供中信嘉華銀行用作保證就任何對其負有的法律責任付款或解除該法律責任,則該抵押權益不得憑藉本條例自指定日期起成為可供香港華人銀行就該法律責任用作保證,但如——

that nominee, agent or trustee for, Hongkong Chinese Bank, and be available to Hongkong Chinese Bank (whether for its own benefit or for the benefit of any other person) as security for the payment or discharge of that liability.

- (ii) In relation to any security interest vested or deemed to be vested in Hongkong Chinese Bank in accordance with the provisions of this Ordinance and any liability thereby secured, Hongkong Chinese Bank shall be entitled to the rights and priorities and be subject to the obligations and incidents to which CITIC Ka Wah Bank would have been entitled and subject if it had continued to hold the security interest.
- (iii) Without prejudice to the generality of subparagraph (ii), in any case where any existing liability subsists between CITIC Ka Wah Bank and Hongkong Chinese Bank in respect of which CITIC Ka Wah Bank or Hongkong Chinese Bank, or a nominee or agent of or trustee for CITIC Ka Wah Bank or Hongkong Chinese Bank holds a security interest, that liability shall, for the purpose of enforcing or realizing that security interest, be deemed to continue in effect notwithstanding the vesting of the undertaking in Hongkong Chinese Bank.
- (iv) Any security interest referred to in subparagraph (i), (ii) or (iii) and which extends to future advances or liabilities shall, on and from the appointed day, be available to Hongkong Chinese Bank (whether for its own benefit or for the benefit of any other person) as security for the payment or discharge of future advances and liabilities to the same extent and in the same manner in all respects as future advances by, or liabilities to, CITIC Ka Wah Bank or Hongkong Chinese Bank were secured thereby immediately before that day.
- (v) Notwithstanding subparagraph (i), where immediately before the appointed day any security interest would not be available to Hongkong Chinese Bank as security for the payment or discharge of any liability owing to it, or to CITIC Ka Wah Bank as security for the payment or discharge of any liability owing to it, such security interest shall not become available to Hongkong Chinese Bank as security for such liability on and from the appointed day by virtue of this Ordinance, unless—

(A) 該抵押權益的條款另有明文規定；

(B) 香港華人銀行取得授予該抵押權益的人的書面同意；或

(C) 該抵押權益是根據一般法律產生的，則屬例外。

(vi) 即使有第(ii)節的規定，如香港華人銀行在緊接指定日期之前不會就任何對其負有的法律責任享有在當時存在的抵押權益所關乎的權利及優先權，或中信嘉華銀行在緊接指定日期之前不會就任何對其負有的法律責任享有在當時存在的抵押權益所關乎的權利及優先權，則香港華人銀行不得憑藉本條例自指定日期起就該法律責任享有該等權利及優先權，但如——

(A) 該抵押權益的條款另有明文規定；

(B) 香港華人銀行取得授予該抵押權益的人的書面同意；或

(C) 該抵押權益是根據一般法律產生的，則屬例外。

(h) (i) 中信嘉華銀行的權利或法律責任，如憑藉本條例而成為或當作為香港華人銀行的權利或法律責任，香港華人銀行及所有其他人自指定日期起即具有同樣的權利、權力及補救（尤其是提出法律程序，或在法律程序中抗辯，或向任何主管當局提出或反對申請的權利及權力），以便確定、完成或強制執行該權利或法律責任，猶如該權利或法律責任在任何時候均屬於香港華人銀行一樣；而由中信嘉華銀行提出或針對中信嘉華銀行向任何主管當局提出，並在緊接指定日期之前存在或待決的法律程序，或由中信嘉華銀行提出或針對中信嘉華銀行向任何主管當局提出，並在緊接指定日期之前存在或待決的申請，均可由香港華人銀行繼續進行，或可繼續針對香港華人銀行進行。

(ii) 如中信嘉華銀行是仲裁程序的一方，而該銀行的權利或法律責任在指定日期之前已屬該仲裁程序的有關事宜，則自指定日期起，香港華人銀行即自動取代中信嘉華銀行成為該仲裁程序的一方，而無需任何其他一方或仲裁員的同意。

(A) the terms of such security interest expressly provide otherwise;

(B) Hongkong Chinese Bank obtains the written consent of the person or persons who granted such security interest; or

(C) such security interest arises at general law.

(vi) Notwithstanding subparagraph (ii), where immediately before the appointed day, Hongkong Chinese Bank would not, in respect of any liability owing to it, be entitled to the rights and priorities in relation to any security interest then in existence, or CITIC Ka Wah Bank would not, in respect of any liability owing to it, be entitled to the rights and priorities in relation to any security interest then in existence, Hongkong Chinese Bank shall not, in respect of such liability, be entitled to such rights and priorities on and from the appointed day by virtue of this Ordinance, unless—

(A) the terms of such security interest expressly provide otherwise;

(B) Hongkong Chinese Bank obtains the written consent of the person or persons who granted such security interest; or

(C) such security interest arises at general law.

(h) (i) Where by virtue of this Ordinance any right or liability of CITIC Ka Wah Bank becomes or is deemed to become a right or liability of Hongkong Chinese Bank, Hongkong Chinese Bank and all other persons shall, on and from the appointed day, have the same rights, powers and remedies (and in particular the same rights and powers as to taking or resisting legal proceedings or making or resisting applications to any authority) for ascertaining, perfecting or enforcing that right or liability as if it had at all times been a right or liability of Hongkong Chinese Bank; and any legal proceedings or application to any authority existing or pending immediately before the appointed day by or against CITIC Ka Wah Bank may be continued by or against Hongkong Chinese Bank.

(ii) Where any right or liability of CITIC Ka Wah Bank was before the appointed day the subject of arbitral proceedings to which CITIC Ka Wah Bank was a party, Hongkong Chinese Bank shall on and from the appointed day automatically be substituted for CITIC Ka Wah Bank as a party to those proceedings, without the need for consent from any other party or from the arbitrator.

- (i) 裁定中信嘉華銀行勝訴或敗訴的任何判決或裁決，如在指定日期之前仍未獲完全履行，則在指定日期當日，在可由或可針對中信嘉華銀行強制執行的範圍內，須成為可由或可針對香港華人銀行強制執行。
- (j) 自指定日期起，任何適用於中信嘉華銀行的法庭命令，即適用於香港華人銀行而非中信嘉華銀行。
- (k) 本條例不得終止或損及在指定日期前由中信嘉華銀行單獨或聯同他人委任的接管人或接管人兼管理人的委任、權限、權利或權力。
- (l) 如私隱專員本可就中信嘉華銀行違反或被指稱違反《個人資料(私隱)條例》(第486章)或保障資料原則一事而在緊接指定日期之前根據該條例就中信嘉華銀行行使任何權力，則自指定日期起，他可就香港華人銀行行使該權力；但根據本條例將中信嘉華銀行的業務移轉予及轉歸香港華人銀行，以及因預期或由於進行上述移轉及轉歸而向香港華人銀行所作出的任何信息披露，並不屬違反中信嘉華銀行在緊接該指定日期前所負有的保密責任，而香港華人銀行或中信嘉華銀行亦不屬違反《個人資料(私隱)條例》(第486章)或保障資料原則。

8. 中信嘉華銀行及香港華人銀行的會計處理。

- (1) 不論其他條例有任何條文，憑藉本條例，自指定日期起——
 - (a) 就中信嘉華銀行及香港華人銀行各自的會計期而編製中信嘉華銀行及香港華人銀行的資產負債表及損益表時，如指定日期是在該會計期內，則就各方面而言，該等報表須在猶如有關業務視為已於香港華人銀行的該會計期的第一天依據第5條轉歸香港華人銀行的情況下編製；

- (i) Any judgment or award obtained by or against CITIC Ka Wah Bank and not fully satisfied before the appointed day shall on that day, to the extent to which it is enforceable by or against CITIC Ka Wah Bank, become enforceable by or against Hongkong Chinese Bank.
- (j) Any court order which applies to CITIC Ka Wah Bank shall on and from the appointed day apply to Hongkong Chinese Bank instead of to CITIC Ka Wah Bank.
- (k) Nothing in this Ordinance shall terminate or prejudicially affect the appointment, authority, rights or powers of any receiver or of any receiver and manager appointed by CITIC Ka Wah Bank, whether alone or with others, before the appointed day.
- (l) The Privacy Commissioner may, on and from the appointed day, exercise in respect of Hongkong Chinese Bank any power under the Personal Data (Privacy) Ordinance (Cap. 486) which he could have immediately before the appointed day exercised in respect of CITIC Ka Wah Bank in respect of a breach or alleged breach by CITIC Ka Wah Bank of that Ordinance or the data protection principles; but the transfer to, and vesting in, Hongkong Chinese Bank by this Ordinance of the undertaking of CITIC Ka Wah Bank and any disclosure to Hongkong Chinese Bank of any information in contemplation or as a result thereof shall not amount to a breach of any duty of confidentiality to which CITIC Ka Wah Bank is subject immediately before the appointed day or to a contravention by Hongkong Chinese Bank or CITIC Ka Wah Bank of the Personal Data (Privacy) Ordinance (Cap. 486) or the data protection principles.

8. Accounting treatment of CITIC Ka Wah Bank and Hongkong Chinese Bank

- (1) On and from the appointed day, by virtue of this Ordinance and notwithstanding the provisions of any other Ordinance—
 - (a) the balance sheets and profit and loss accounts of CITIC Ka Wah Bank and Hongkong Chinese Bank for the accounting period of each company in which the appointed day falls shall be prepared in all respects as if the undertaking had vested in Hongkong Chinese Bank pursuant to section 5 on the first day of such accounting period of Hongkong Chinese Bank;

- (b) 中信嘉華銀行的所有財產及負債(除外財產及法律責任則除外)，均須以其在中信嘉華銀行的報表中於香港華人銀行上述會計期第一天的帳面價值，移轉予香港華人銀行；
- (c) 在中信嘉華銀行的報表中反映的上述會計期第一天關於憑藉本條例轉歸香港華人銀行的財產及負債的中信嘉華銀行現有的每一項儲備金，均須移轉予香港華人銀行，並就所有目的而言，均屬及成為香港華人銀行的儲備金；及
- (d) 依據(c)段產生的各項香港華人銀行儲備金的款額、名稱及性質，在各方面而言均須與緊接在香港華人銀行上述會計期第一天之前相應的中信嘉華銀行現有儲備金的款額、名稱及性質一樣，而各項成文法則及法律規則適用於香港華人銀行的上述各項儲備金或就其適用的方式，在各方面而言，均須與緊接在香港華人銀行上述會計期第一天之前適用於相應的中信嘉華銀行現有儲備金或就其適用的方式一樣。

(2) 第(1)款中凡提述一項現有儲備金時，均包括提述任何儲備金或同類準備金，而不論其名稱或稱謂如何(亦不論其款額是正是負)。在不影響前述條文的一般性的原則下，凡提述該等現有儲備金時，均包括提述損益表內貸方(或借方)所記的任何數額。

(3) 在不影響第(1)款的一般性的原則下，中信嘉華銀行在包括指定日期在內的財政年度開始後取得的任何盈利或蒙受的任何虧損，自指定日期起，憑藉本條例就所有目的而言，均視為香港華人銀行的盈利或虧損(視屬何情況而定)。

9. 課稅及稅務事宜

(1) 就《稅務條例》(第112章)而言，自指定日期起並就業務而言，香港華人銀行須視作猶如是中信嘉華銀行的延續並在法律上與中信嘉華銀行均是同一人一樣。

(2) 據此(並在不影響第(1)款的一般性的原則下)——

- (b) all property and liabilities of CITIC Ka Wah Bank (other than excluded property and liabilities) shall be transferred to Hongkong Chinese Bank at their carrying value in the accounts of CITIC Ka Wah Bank on the first day of such accounting period of Hongkong Chinese Bank;
- (c) each existing reserve of CITIC Ka Wah Bank relating to the property and liabilities vested in Hongkong Chinese Bank by virtue of this Ordinance as reflected in the accounts of CITIC Ka Wah Bank on the first day of such accounting period of Hongkong Chinese Bank shall be transferred to and for all purposes be and become a reserve of Hongkong Chinese Bank; and
- (d) the amount, description and character of every reserve of Hongkong Chinese Bank which shall come into being pursuant to paragraph (c) shall be the same in all respects as those of the corresponding existing reserve of CITIC Ka Wah Bank immediately before the first day of such accounting period of Hongkong Chinese Bank, and all enactments and rules of law shall apply to or in respect of every such reserve of Hongkong Chinese Bank in the same manner in all respects as they applied to or in respect of the corresponding existing reserve of CITIC Ka Wah Bank immediately before the first day of such accounting period of Hongkong Chinese Bank.

(2) Every reference in subsection (1) to an existing reserve shall include a reference to any reserve or similar provision, irrespective of its name or designation (and whether the amount thereof be positive or negative in nature) and, without prejudice to the generality of the foregoing, every such reference shall include a reference to any sums standing to the credit (or debit) of any profit and loss account.

(3) Without prejudice to the generality of subsection (1), any profits or losses of CITIC Ka Wah Bank earned or incurred after the beginning of the financial year of CITIC Ka Wah Bank in which the appointed day shall occur, shall on and from the appointed day, by virtue of this Ordinance, be treated for all purposes as profits or, as the case may be, losses, of Hongkong Chinese Bank.

9. Taxation and revenue matters

(1) For the purposes of the Inland Revenue Ordinance (Cap. 112), on and from the appointed day Hongkong Chinese Bank shall be treated as if it were the continuation of and the same person in law with regard to the undertaking as CITIC Ka Wah Bank.

(2) Accordingly (and without affecting the generality of subsection (1))——

- (a) 任何憑藉本條例轉歸或當作轉歸香港華人銀行的財產或法律責任，就《稅務條例》(第 112 章)的任何目的而言，並不構成出售或以其他方式處置該財產或法律責任，亦不構成該財產或法律責任的性質的改變；
- (b) 中信嘉華銀行蒙受的虧損總額，如在其上一個完整財政年度結束時，就《稅務條例》(第 112 章)第 19C 條而本可結轉但並未結轉及未以中信嘉華銀行的應評稅利潤抵銷，則該虧損總額即當作為香港華人銀行的虧損；據此就該條例而言，該虧損總額可供以香港華人銀行的應評稅利潤(或香港華人銀行在其作為合夥人的合夥的應評稅利潤中所佔的份額)抵銷。
- (3) 如中信嘉華銀行的利潤或虧損按照第 8(3) 條而視作香港華人銀行的利潤或虧損，則——
- (a) 根據《稅務條例》(第 112 章)第 IV 部就任何課稅年度計算中信嘉華銀行的應課稅利潤及虧損時，上述中信嘉華銀行的利潤及虧損無須計算在內；及
- (b) 根據《稅務條例》(第 112 章)第 IV 部就評稅基期內包括有指定日期在內的課稅年度計算香港華人銀行的應課稅利潤或虧損時，上述中信嘉華銀行的利潤或虧損須計算在內。

10. 僱傭合約

- (1) 第 7(a) 條適用於中信嘉華銀行聘用任何人的僱傭合約；而根據該合約受僱於中信嘉華銀行及香港華人銀行，就所有目的而言，須當作連續受僱於同一僱主。
- (2) 中信嘉華銀行的董事、秘書或核數師，不得僅憑藉本條例而成為香港華人銀行的董事、秘書或核數師(視屬何情況而定)。

11. 退休金、公積金及酬金利益

- (1) 構成或關乎在香港設立並名為 The Ka Wah Bank Group Provident Fund 的職業退休計劃，在香港設立並名為友邦怡富強積金優越計劃(AIA-JF Premium Mandatory Provident Fund Scheme)的公積金計劃以及中信嘉華銀行須支付的酬金利

- (a) a vesting or deemed vesting in Hongkong Chinese Bank of any property or liabilities by virtue of this Ordinance does not constitute a sale or other disposal of or a change in the nature of that property or the liability for any purpose under the Inland Revenue Ordinance (Cap. 112);
- (b) the aggregate amount of any losses sustained by CITIC Ka Wah Bank which are capable of but have not been carried forward and set off against assessable profits of CITIC Ka Wah Bank for the purposes of section 19C of the Inland Revenue Ordinance (Cap. 112) as at the end of the last complete financial year of CITIC Ka Wah Bank are deemed to be losses of Hongkong Chinese Bank and, accordingly, available for set off against the assessable profits of Hongkong Chinese Bank (or Hongkong Chinese Bank's share of assessable profits of a partnership in which it is a partner) for the purposes of that Ordinance.
- (3) The profits or losses of CITIC Ka Wah Bank treated as profits or losses of Hongkong Chinese Bank in accordance with section 8(3)—
- (a) shall not be taken into account for the purpose of computing the profits and losses of CITIC Ka Wah Bank which are chargeable to tax under Part IV of the Inland Revenue Ordinance (Cap. 112) for any year of assessment; and
- (b) shall be taken into account for the purpose of computing the profits or losses of Hongkong Chinese Bank which are chargeable to tax under Part IV of the Inland Revenue Ordinance (Cap. 112) for the year of assessment the basis period for which includes the appointed day.

10. Contracts of employment

- (1) Section 7(a) shall apply to a contract for the employment of any person by CITIC Ka Wah Bank and employment with CITIC Ka Wah Bank and Hongkong Chinese Bank under any such contract shall be deemed for all purposes to be a single continuing employment.
- (2) No director, secretary or auditor of CITIC Ka Wah Bank shall by virtue only of this Ordinance become a director, secretary or auditor, as the case may be, of Hongkong Chinese Bank.

11. Pensions, provident funds and gratuity benefits

- (1) The deeds and rules constituting or relating to the occupational retirement scheme established in Hong Kong and known as The Ka Wah Bank Group Provident Fund and the provident fund scheme established in Hong

益的契據及規則，自指定日期起，在文意許可的情況下，就僅憑藉本條例而成為香港華人銀行高級人員或僱員的中信嘉華銀行高級人員或僱員而言，須在猶如該等契據及規則內任何提述中信嘉華銀行之處均以提述香港華人銀行取代的情況下解釋和具有效力。

(2) 憑藉本條例而成為香港華人銀行高級人員或僱員的中信嘉華銀行高級人員或僱員，不得僅憑藉本條例而有權參加在香港設立並名為蘇黎世華人銀行強積金計劃——顯赫之選 (Zurich-Chinese Bank MPF Scheme—PremierDELUXE) 的公積金計劃及香港華人銀行的任何公積金計劃或享有香港華人銀行支付的酬金利益，而香港華人銀行的現有高級人員或僱員，亦不得僅憑藉本條例而有權參加 The Ka Wah Bank Group Provident Fund 或友邦怡富強積金優越計劃 (AIA-JF Premium Mandatory Provident Fund Scheme) 或中信嘉華銀行的任何其他職業退休計劃、公積金計劃或享有中信嘉華銀行支付的酬金利益。

12. 對禁止合併的寬免

(1) 在香港華人銀行或中信嘉華銀行或其各自的任何附屬公司是立約一方的合約或其他文件內，如載有任何條文，而該條文禁止中信嘉華銀行的業務移轉予及轉歸或當作移轉予及轉歸香港華人銀行，或該條文的效力是禁止中信嘉華銀行的業務移轉予及轉歸或當作移轉予及轉歸香港華人銀行，則該條文藉本條例而當作已被免去。

(2) 在香港華人銀行或中信嘉華銀行或其各自的任何附屬公司是立約一方的合約或其他文件內，如載有任何條文，而該條文表明中信嘉華銀行的業務移轉予及轉歸或當作移轉予及轉歸香港華人銀行會引致出現失責或當作出現失責，則該條文藉本條例而當作已被免去。

13. 證據：簿冊及文件

(1) 凡簿冊及其他文件如在指定日期前本會就任何事宜作為對中信嘉華銀行有利或不利的證據者，則就同一事宜而言，可接納為對香港華人銀行有利或不利的證據。

(2) 在本條中，“文件”(documents)一詞的涵義，與《證據條例》(第8章)第46條中該詞的涵義相同。

Kong and known as the AIA-JF Premium Mandatory Provident Fund Scheme (友邦怡富強積金優越計劃), and the gratuity benefits payable by CITIC Ka Wah Bank shall, on and from the appointed day, be construed and have effect, so far as the context permits, as if for any reference therein to CITIC Ka Wah Bank there were substituted a reference to Hongkong Chinese Bank in respect of officers or employees of CITIC Ka Wah Bank who become officers or employees of Hongkong Chinese Bank by virtue only of this Ordinance.

(2) No officer or employee of CITIC Ka Wah Bank who becomes an officer or employee of Hongkong Chinese Bank by virtue of this Ordinance shall, by virtue only of this Ordinance, be entitled to participate in the provident fund scheme established in Hong Kong and known as the Zurich-Chinese Bank MPF Scheme—PremierDELUXE (蘇黎世華人銀行強積金計劃——顯赫之選), any provident fund schemes of or gratuity payments payable by Hongkong Chinese Bank, and no existing officer or employee of Hongkong Chinese Bank shall, by virtue only of this Ordinance, be entitled to participate in The Ka Wah Bank Group Provident Fund or the AIA-JF Premium Mandatory Provident Fund Scheme (友邦怡富強積金優越計劃) or any other occupational retirement scheme of, provident fund scheme of, or gratuity benefits payable by CITIC Ka Wah Bank.

12. Waiver of prohibition of merger

(1) Any provision contained in any contract or other document to which Hongkong Chinese Bank or CITIC Ka Wah Bank or any of their respective subsidiaries is a party which prohibits or has the effect of prohibiting the transfer and vesting or deemed transfer and vesting of the undertaking of CITIC Ka Wah Bank in Hongkong Chinese Bank shall be deemed by this Ordinance to have been waived.

(2) Any provision contained in any contract or other document to the effect that a default shall occur or be deemed to occur as a result of the transfer and vesting or deemed transfer and vesting of the undertaking of CITIC Ka Wah Bank in Hongkong Chinese Bank, and to which Hongkong Chinese Bank or CITIC Ka Wah Bank or any of their respective subsidiaries is a party, shall be deemed by this Ordinance to have been waived.

13. Evidence: books and documents

(1) All books and other documents which would, before the appointed day, have been evidence in respect of any matter for or against CITIC Ka Wah Bank shall be admissible in evidence in respect of the same matter for or against Hongkong Chinese Bank.

(2) In this section, “documents” (文件) has the same meaning as in section 46 of the Evidence Ordinance (Cap. 8).

14. 《證據條例》(第8章)第III部

(1) 自指定日期起，《證據條例》(第8章)第III部適用於憑藉本條例當作轉歸香港華人銀行的中信嘉華銀行的銀行紀錄，亦適用於在指定日期前已列入該等紀錄內的記項，猶如該等紀錄是香港華人銀行的紀錄一樣。

(2) 就《證據條例》(第8章)第20條而言，凡銀行紀錄憑藉本條例當作已成為香港華人銀行的銀行紀錄，而其內有任何記項看來是在指定日期前已列入者，則該等紀錄須當作在列入該記項時已屬香港華人銀行的普通銀行紀錄，而任何該等記項須當作在慣常及通常業務運作中列入的。

(3) 就《證據條例》(第8章)第40及41條而言，先前由中信嘉華銀行保管或控制的文件，均憑藉本條例當作先前由香港華人銀行保管或控制的文件。

(4) 在本條中，“銀行紀錄”(banker's records)一詞須按照《證據條例》(第8章)第2條解釋。

15. 轉歸和移轉的證據

(1) 就所有目的而言，出示本條例的政府印務局文本，即為中信嘉華銀行的財產及法律責任按照本條例的條文轉歸和移轉予或當作轉歸和移轉予香港華人銀行的不可推翻的證據。

(2) 在不損害第(1)款的一般性的原則下——

(a) 本條例的政府印務局文本連同刊登指定日期公告的證據——

(i) 就憑藉本條例移轉予和轉歸香港華人銀行的註冊證券而言，就所有目的而言均具有就該等證券從中信嘉華銀行移轉予香港華人銀行而妥為簽立的移轉文書的效用；

(ii) 在連同有依據第2(1)條中“除外財產及法律責任”的定義的(d)段而作出的決議的核證文本的情況下，即為該決議內提及的財產或法律責任屬除外財產及法律責任的充分證據；

14. Part III of Evidence Ordinance (Cap. 8)

(1) On and from the appointed day, Part III of the Evidence Ordinance (Cap. 8) shall apply to the banker's records of CITIC Ka Wah Bank deemed to be vested in Hongkong Chinese Bank by virtue of this Ordinance, and to entries made in those records before the appointed day, as if such records were the records of Hongkong Chinese Bank.

(2) For the purposes of section 20 of the Evidence Ordinance (Cap. 8), banker's records which are deemed to have become the banker's records of Hongkong Chinese Bank by virtue of this Ordinance shall be deemed to have been the ordinary banker's records of Hongkong Chinese Bank at the time of the making of any entry therein which purports to have been made before the appointed day, and any such entry shall be deemed to have been made in the usual and ordinary course of business.

(3) For the purposes of sections 40 and 41 of the Evidence Ordinance (Cap. 8), documents previously in the custody or control of CITIC Ka Wah Bank shall by virtue of this Ordinance be deemed to be documents previously in the custody or control of Hongkong Chinese Bank.

(4) In this section, “banker's records” (銀行紀錄) shall be construed in accordance with section 2 of the Evidence Ordinance (Cap. 8).

15. Evidence of vesting and transfer

(1) The production of a Government Printer's copy of this Ordinance shall, for all purposes, be conclusive evidence of the vesting and transfer or deemed vesting and transfer of any property and liabilities of CITIC Ka Wah Bank in Hongkong Chinese Bank in accordance with the provisions of this Ordinance.

(2) Without prejudice to the generality of subsection (1)—

(a) a Government Printer's copy of this Ordinance, together with evidence of publication of notice of the appointed day—

(i) shall, in relation to any registered securities transferred to, and vested in, Hongkong Chinese Bank by virtue of this Ordinance, operate for all purposes as a duly executed instrument of transfer in respect of the transfer of such registered securities from CITIC Ka Wah Bank to Hongkong Chinese Bank;

(ii) shall, together with a certified copy of any resolution made pursuant to paragraph (d) of the definition of “excluded property and liabilities” in section 2(1), be sufficient evidence that the property or liabilities mentioned within such a resolution are excluded property and liabilities;

- (b) 任何契據或其他文件如在指定日期當日或以後訂立或簽立，而香港華人銀行或中信嘉華銀行藉該文件而單獨或聯同其他人將中信嘉華銀行在緊接指定日期前單獨或聯同其他人持有並屬業務組成部分的財產轉易或移轉予（不論是否為代價而作出）或其意是將該財產轉易或移轉予任何人（不論是否為代價而作出），或藉該文件單獨或聯同其他人申請註冊為該財產的持有人或所有人，則上述契據或文件即為中信嘉華銀行就該財產所佔的權益根據本條例轉歸香港華人銀行的充分證據；
- (c) 自指定日期起，中信嘉華銀行或香港華人銀行如有其他交易或看來是交易的交易，而其所涉及或關乎的財產或法律責任在緊接該日期前為中信嘉華銀行所有並屬業務組成部分的財產或法律責任，則為交易的其他一方或透過或藉着該一方提出申索的人的利益起見，香港華人銀行須當作有全面的權力及權限進行該宗交易，猶如該等財產或法律責任已根據本條例轉歸香港華人銀行一樣；
- (d) 由香港華人銀行或代表該銀行在任何時候發出的證明書，證明其內所指明的財產或法律責任（該財產或法律責任在緊接指定日期前為中信嘉華銀行的財產或法律責任）根據本條例當作或不當作（視屬何情況而定）轉歸香港華人銀行者，就所有目的而言均為其所證明事實的不可推翻的證據。
- (3) 第(2)(c)或(d)款並不影響中信嘉華銀行及香港華人銀行就或看來已就其中一方在涉及或關乎任何財產或法律責任所作出的任何事情，對另一方所負的法律責任。
- (4) 在第(2)款中——
- (a) “轉易”(convey)包括按揭、押記、租賃、允許、藉轉歸聲明或轉歸文書而作出的轉歸、卸棄、讓予或其他方式的轉易；及
- (b) “註冊證券”(registered securities)指股份、股額、債權證、貸款、債權證明書、單位信託計劃中的單位或受該項計劃的信託所規限的投資的其他股份，以及其他各類可轉讓而持有人是名列登記冊（不論登記冊是否在香港備存）的證券。

- (b) any deed or other document made or executed on or after the appointed day, whereby Hongkong Chinese Bank or CITIC Ka Wah Bank, whether alone or jointly with any other person, conveys or transfers, or purports to convey or transfer, to any person (whether for consideration or not), or applies to be registered as the holder or proprietor of, any property held by CITIC Ka Wah Bank immediately before the appointed day and forming part of the undertaking, whether alone or jointly with any other person, shall be sufficient evidence that the interest of CITIC Ka Wah Bank in that property is vested in Hongkong Chinese Bank under this Ordinance;
- (c) where there is any other transaction or purported transaction by CITIC Ka Wah Bank or Hongkong Chinese Bank on or after the appointed day in connection with, or in relation to, any property or liabilities which are property or liabilities of CITIC Ka Wah Bank immediately before that day and forming part of the undertaking, it shall be deemed in favour of any other party to the transaction, or any person claiming through or under him, that Hongkong Chinese Bank has full power and authority for that transaction as if the property or liabilities were vested in it under this Ordinance;
- (d) a certificate given by or on behalf of Hongkong Chinese Bank at any time that any property or liabilities specified in the certificate (which property or liabilities immediately before the appointed day is the property or liabilities of CITIC Ka Wah Bank) is or, as the case may be, is not, deemed to be vested in Hongkong Chinese Bank under this Ordinance, shall be conclusive evidence for all purposes of the fact so certified.
- (3) Nothing in subsection (2)(c) or (d) shall affect the liability of CITIC Ka Wah Bank and Hongkong Chinese Bank to the other of them in respect of anything done, or purporting to have been done, by either of them in connection with, or in relation to, any property or liabilities.
- (4) In subsection (2)—
- (a) “convey” (轉易) includes mortgage, charge, lease, assent, vest by way of vesting declaration or vesting instrument, disclaim, release or otherwise assure; and
- (b) “registered securities” (註冊證券) means shares, stocks, debentures, loans, bonds, units of a unit trust scheme or other shares of the investments subject to the trusts of such a scheme, and other securities of any description which are transferable and the holders of which are entered in a register (whether maintained in Hong Kong or not).

(5) 本條不適用於第 5(2) 條適用範圍內的財產。

16. 土地權益

(1) 土地權益憑藉本條例轉歸及當作轉歸香港華人銀行一事——

- (a) 就《業主與租客(綜合)條例》(第 7 章)第 53(4)(a) 或 (7)(a)、119E(2) 或 119H(1)(a) 條而言，並不構成該權益的取得、處置、轉讓、移轉、或放棄管有該權益；或
- (b) 就《業主與租客(綜合)條例》(第 7 章)第 6(1)(b) 條而言，並不構成該權益的轉讓或分租或該權益的轉讓協議或分租協議；或
- (c) 並無將租賃權益併入其預期的復歸權的效用；或
- (d) 就關乎該權益或影響該權益的文書所載的條文而言，並不構成對該權益作出轉讓、移轉、轉予、放棄管有、作出處理或其他產權處置；或
- (e) 不屬違反禁止讓與的契諾或條件；或
- (f) 並不導致任何權利的喪失，亦不引致損害賠償或其他訴訟行動；或
- (g) 並不令任何合約或抵押權益失效或獲得解除；或
- (h) 並不終絕、影響、更改、縮減或延遲該權益的優先權，不論該優先權是根據《土地註冊條例》(第 128 章)、普通法或衡平法而存在的。

(2) 所有以中信嘉華銀行的名義(無論單獨或聯同其他人)就土地權益作出的現有登記(在該等土地權益憑藉本條例轉歸香港華人銀行的範圍內)，以及所有緊接指定日期前以香港華人銀行的名義(無論單獨或聯同其他人)就土地權益作出的現有登記，自指定日期起均須在猶如已將“CITIC Ka Wah Bank Limited 中信嘉華銀行有限公司”的名義而非中信嘉華銀行或香港華人銀行的名義(視屬何情況而定)記入土地登記冊上的情況下解釋和具有效力。

(3) 所有以中信嘉華銀行的名義(無論單獨或聯同其他人)就土地權益作出的現有登記，在該等土地權益不會憑藉本條例而轉歸香港華人銀行的範圍內，自指定日期起均須在猶如已將“CITIC International Financial Holdings Limited 中信國際金融控股有限公司”的名義而非中信嘉華銀行的名義記入土地登記冊上的情況下解釋和具有效力。

(5) Nothing in this section applies to any property falling within section 5(2).

16. Interests in land

(1) The vesting and deemed vesting in Hongkong Chinese Bank of an interest in land by virtue of this Ordinance shall not—

- (a) constitute an acquisition, disposal, assignment, transfer or parting with possession of that interest for the purposes of section 53(4)(a) or (7)(a), 119E(2) or 119H(1)(a) of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7); or
- (b) constitute an assignment or underlease of, or an agreement to assign or underlet, that interest for the purposes of section 6(1)(b) of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7); or
- (c) operate so as to merge any leasehold interest in the reversion expectant on it; or
- (d) constitute an assignment, transfer, devolution, parting with possession, dealing with or other disposition of that interest for the purposes of any provision contained in any instrument concerning or affecting that interest; or
- (e) operate as a breach of covenant or condition against alienation; or
- (f) give rise to any forfeiture, damages or other right of action; or
- (g) invalidate or discharge any contract or security interest; or
- (h) extinguish, affect, vary, diminish or postpone any priority of that interest, whether under the Land Registration Ordinance (Cap. 128), at law or in equity.

(2) All existing registration of any interest in land in the name of CITIC Ka Wah Bank (whether alone or with any other person) vested in Hongkong Chinese Bank by virtue of this Ordinance and all existing registration of any interest in land in the name of Hongkong Chinese Bank (whether alone or with any other person) immediately before the appointed day shall be construed and have effect on and from the appointed day as if the name “CITIC Ka Wah Bank Limited 中信嘉華銀行有限公司” had been entered on the land register instead of the name of CITIC Ka Wah Bank or Hongkong Chinese Bank, as the case may be.

(3) All existing registration of any interest in land in the name of CITIC Ka Wah Bank (whether alone or with any other person) not vested in Hongkong Chinese Bank by virtue of this Ordinance shall be construed and have effect on and from the appointed day as if the name “CITIC International Financial Holdings Limited 中信國際金融控股有限公司” had been entered on the land register instead of the name of CITIC Ka Wah Bank.

(4) 為使香港華人銀行能夠在其認為合適時，將憑藉本條例移轉予及轉歸或當作轉歸該銀行的財產的擁有權，藉擁有權公告、契據、文書或其他方式予以完備，或使香港華人銀行能夠追溯該擁有權，本條例須當作及可用作為就上述財產以香港華人銀行為受益人而作出的轉讓、轉易、移轉或一般產權處置（視屬何情況而定）。

(5) 香港華人銀行須就全部憑藉本條例移轉予及轉歸或當作轉歸香港華人銀行的中信嘉華銀行財產轉歸一事，將本條例的政府印務局文本，就憑藉本條例而移轉予及轉歸或當作轉歸香港華人銀行的任何財產，在土地註冊處登記，或安排將該文本就該等財產在土地註冊處登記。

(6) 為免生疑問，香港華人銀行或中信嘉華銀行並不因本條而免受《印花稅條例》（第117章）的條文所規限。

17. 關於銀行的成文法則的保留條文

中信嘉華銀行或香港華人銀行或兩者其中之一任何附屬公司，並不因本條例而免受任何規管上述銀行或公司的業務經營的成文法則的條文所規限。

18. 公司的保留條文

本條例並不損害香港華人銀行修改其組織章程大綱及組織章程細則的權力，或處置或處理其財產、抵押權益或法律責任，或經營或不再繼續經營其業務任何部分的權力；而本條例亦不損害中信嘉華銀行在指定日期前修改其組織章程大綱及組織章程細則的權力，或處置或處理其財產、抵押權益或法律責任的權力。

19. 保留條文

本條例的條文不影響亦不得當作影響中央或香港特別行政區政府根據《基本法》和其他法律的規定所享有的權利或任何政治團體或法人團體或任何其他人的權利，但本條例所述及者和經由、透過或藉著他們提出申索者除外。

(4) To enable Hongkong Chinese Bank to complete title, if thought fit, to any property transferred to it and vested or deemed to be vested in it by virtue of this Ordinance by notice of title, deed, instrument or otherwise, or to deduce title, this Ordinance shall be deemed to be, and may be used as an assignment, conveyance, transfer or, as the case may be, general disposition of such property in favour of Hongkong Chinese Bank.

(5) Hongkong Chinese Bank shall register or cause to be registered in the Land Registry a Government Printer's copy of this Ordinance against a property transferred to it and vested or deemed to be vested in it by virtue of this Ordinance in respect of the vesting of all the properties of CITIC Ka Wah Bank transferred to and vested or deemed to be vested in Hongkong Chinese Bank by virtue of this Ordinance.

(6) For the avoidance of doubt, nothing in this section shall exempt Hongkong Chinese Bank or CITIC Ka Wah Bank from the provisions of the Stamp Duty Ordinance (Cap. 117).

17. Saving for enactments concerning banking institutions

Nothing in this Ordinance shall exempt CITIC Ka Wah Bank or Hongkong Chinese Bank or any subsidiary of CITIC Ka Wah Bank or Hongkong Chinese Bank from the provisions of any enactment regulating the carrying on of the business of any of them.

18. Saving for companies

Nothing in this Ordinance shall prejudice the powers of Hongkong Chinese Bank to alter its memorandum and articles of association or to dispose of, or deal with, its property, security interests or liabilities or to carry on or discontinue any part of its business; and nothing in this Ordinance shall prejudice the powers of CITIC Ka Wah Bank to alter its memorandum and articles of association or to dispose of, or deal with, its property, security interests or liabilities before the appointed day.

19. Saving

Nothing in this Ordinance shall affect or be deemed to affect the rights of the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws, or the rights of any body politic or corporate or of any other person except such as are mentioned in this Ordinance and those claiming by, from or under them.

摘要說明

本條例草案的目的是將中信嘉華銀行有限公司的業務移轉予香港華人銀行有限公司。中信嘉華銀行有限公司及香港華人銀行有限公司均為根據《銀行業條例》(第155章)領有牌照且在香港成立為法團的銀行。

2. 本條例草案就中信嘉華銀行有限公司的業務在指定日期當日轉歸或當作轉歸香港華人銀行有限公司訂定條文(草案第5條);並就中信嘉華銀行有限公司及香港華人銀行有限公司更改名稱以及撤銷中信嘉華銀行有限公司的銀行牌照訂定條文(草案第4條);本條例草案亦包括若干補充條文:其中載有關於轉歸在信託及遺囑方面的效力(草案第6條)、中信嘉華銀行有限公司和香港華人銀行有限公司的會計處理(草案第8條)、課稅事宜(草案第9條)、與客戶、借款人、僱員及其他第三方的關係(草案第7、10、11及12條)以及證據(草案第13至15條)。

中信嘉華銀行有限公司
香港華人銀行有限公司的代表律師
高偉紳律師行

Explanatory Memorandum

The purpose of this Bill is to transfer the undertaking of CITIC Ka Wah Bank Limited to The Hong Kong Chinese Bank, Limited. Both CITIC Ka Wah Bank Limited and The Hong Kong Chinese Bank, Limited are banks licensed under the Banking Ordinance (Cap. 155) and are incorporated in Hong Kong.

2. The Bill provides for the vesting or deemed vesting of the undertaking of CITIC Ka Wah Bank Limited in The Hong Kong Chinese Bank, Limited on the appointed day (clause 5), for the change of name of CITIC Ka Wah Bank Limited and The Hong Kong Chinese Bank, Limited and revocation of the banking licence of CITIC Ka Wah Bank Limited (clause 4) and contains a number of supplementary provisions relating, inter alia, to the effect of the vesting in relation to trusts and wills (clause 6), the accounting treatment of CITIC Ka Wah Bank Limited and The Hong Kong Chinese Bank, Limited (clause 8), taxation matters (clause 9), the relationship with customers, borrowers, employees and other third parties (clauses 7, 10, 11 and 12), and evidence (clauses 13 to 15).

CLIFFORD CHANCE
Solicitors for
CITIC Ka Wah Bank Limited
The Hong Kong Chinese Bank, Limited