

25 May 2018

Daryl Ho
Executive Director
Banking Policy Department
Hong Kong Monetary Authority
55th floor, Two International Finance Centre
8 Finance Street, Central, Hong Kong

Re: ASIFMA response to the HKMA consultation Implementation of TLAC Holdings Standard

Dear Mr. Ho,

The Asia Securities Industry & Financial Markets Association (ASIFMA)¹ and its members welcome the opportunity to provide feedback on this consultation paper, which sets out the Hong Kong Monetary Authority's (HKMA) proposals for implementing in Hong Kong the Banking Committee on Banking Supervision (BCBS) final standard on "TLAC holdings" to specify the regulatory capital treatment of banks' holdings of total loss-absorbing capacity (TLAC) instruments.

ASIFMA fully supports the development of a recovery and resolution framework in Hong Kong to safeguard the stability of Hong Kong's financial system while minimising public costs and economic impact in the event of a financial crisis and submitted on March 15 a response to the HKMA's consultation (CP 18.01) on proposed rules for setting loss-absorbing capacity (LAC) requirements for authorised institutions (AIs) in Hong Kong. We therefore commend the HKMA's consultation paper on TLAC holdings for being generally well-aligned with the BCBS' standard.

We note several areas worth further consideration, however. Greater clarity is still needed on how the HKMA proposes to determine in-scope resolution entities and define material subsidiaries. As currently outlined, the rules provide considerable flexibility in determining what institutions would be captured, which appears to deviate from international standards and from the approach taken in the FSB's Total Loss-Absorbing Capacity (TLAC) Term Sheet (FSB Term Sheet). Without a clear framework on these points, it is difficult for individual AIs to assess the proposed rules' potential impact. We would also favour a like-for-like deduction approach to holdings of external TLAC by a resolution entity in another resolution group but

¹ ASIFMA is an independent, regional trade association with over 80 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, law firms and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative, competitive and efficient Asian capital markets that are necessary to support the region's economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the GFMA alliance with SIFMA in the United States and AFME in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region.

DEVELOPING ASIAN CAPITAL MARKETS

within the same banking group, as it would represent a more appropriate and symmetric approach to cross-holdings of capital. Lastly, ASIFMA is concerned about potential operational difficulties that may arise from the proposed implementation timeline.

We look forward to continued engagement with the HKMA on this issue. If you have further questions or would otherwise like to follow up, please contact Wayne Arnold, ASIFMA's Executive Director and Head of Policy and Regulatory Affairs, at warnold@asifma.org or +852 2531 6560.

Sincerely,



Mark Austen
Chief Executive Officer
Asia Securities Industry & Financial Markets Association

Q1. Do you agree with the above scope of application for the purposes of implementing the BCBS standard locally in terms of:

- (i) investing AIs;**
- (ii) constituents of TLAC holdings; and**
- (iii) timing for other TLAC liabilities issued by any locally-incorporated AI or overseas bank that is not a G-SIB to be subject to deduction (e.g. should deduction be applied even earlier than the time when the issuing AI / bank is classified as required to be subject to an external TLAC requirement)?**

ASIFMA does not oppose the proposed scope of application for the purposes of implementing the BCBS standard. However, we note that the proposed scope of application exceeds the BCBS' proposals:

- The proposed definition of "investing AIs" is broader than the one recommended by the BCBS, as this category will encompass all locally-incorporated AIs, as opposed to the BCBS standard, which states that only "internationally active banks (both G-SIBs and non-G-SIBs) must deduct their TLAC holdings that do not otherwise qualify as regulatory capital from their own Tier 2 capital."
- The proposed definition of what constitutes "TLAC holdings" for the purposes of deduction under the Banking (Capital) Rules (BCR) is also broader than the BCBS' proposals, which limits this category to "other TLAC holdings" issued by global systemically important banks (G-SIBs).

We understand, however, that these broader definitions reflect the local scope of application of the Basel III capital framework.

Q2. Do you have any comments on the above proposals regarding:

- (i) the application of the additional conditions described in paragraph 12(iii) only to G-SIBs and AIs that are classified by the MA as resolution entities?**
- (ii) the risk-weighting treatment of an AI's investments in other TLAC liabilities that are within the deduction threshold?**

As mentioned in our response to CP 18.01, greater clarity is needed on how the HKMA proposes to determine in-scope resolution entities. As currently outlined, the draft LAC rules provide considerable flexibility in determining what institutions would be captured, which appears to deviate from international standards and from the approach taken in the FSB's Total Loss-Absorbing Capacity (TLAC) Term Sheet (FSB Term Sheet). In addition, ASIFMA would welcome further details on the way the HKMA intends to follow and track implementation of the additional 5% deduction thresholds.

Q3. Do you agree with the above proposals for the treatment of an AI's holdings of other TLAC liabilities issued:

- (i) as external TLAC by a resolution entity in another resolution group but within the same banking group when the AI calculates its capital adequacy ratios on a solo and a consolidated basis; and**
- (ii) as internal TLAC by a subsidiary which is a material subsidiary within the same resolution group when the AI calculates its capital adequacy ratio on a solo basis?**

ASIFMA welcomes the proposal that any investing AI within a resolution group could deduct holdings of internal TLAC issued by a material subsidiary within the same resolution group, firstly from other TLAC liabilities issued by the investing AI.

However, we encourage the HKMA to extend this approach to holdings of external TLAC by a resolution entity in another resolution group but within the same banking group when the AI calculates its capital adequacy ratios on a solo and a consolidated basis. In our view, a more appropriate and symmetric approach would be to deduct TLAC holdings from TLAC. The European Commission has proposed such a like-for-like deduction, i.e. MREL holdings deducted from MREL.

Q4. Do you have any comments on the above proposal regarding the interaction of the minimum LAC requirements with an AI's capital buffers?

ASIFMA does not have any comments on the proposed approach regarding the interaction of the minimum LAC requirements with an AI's capital buffers, as it seems consistent with the BCBS' standards on TLAC holdings. However, we would like to reiterate the point made in our response to CP 18.01 that we don't consider it appropriate to transpose a 33% debt requirement to internal LAC, as doing so could have a negative impact on an AI's ability to maintain and manage its leverage ratio.

Q5. Do you have any comments on the proposed timeline and work plan for implementing the BCBS standard locally in Hong Kong?

ASIFMA is concerned about potential operational issues that may arise from the proposed implementation timeline, as it will be challenging for banks to meet TLAC holding requirements before they fully disclose their TLAC liabilities under Pillar 3. Given that dependency, it would be reasonable to first implement Pillar 3 TLAC disclosure requirements, which are expected to be finalised in July 2019, before subjecting banks to TLAC holding requirements. Moreover, as most Hong Kong AIs are unlikely to know their specific LAC requirements until 2020, it will be difficult to gauge how to adhere to the holding requirements as they apply to internal TLAC if applied in 2019.