



**USD200,000,000 undated non-cumulative subordinated
additional tier 1 capital securities
(Issued on 23 March 2022)**

美元 200,000,000 元永續型非累積後償額外一級資本證券
(二〇二二年三月二十三日發行)

**USD200,000,000 UNDATED NON CUMULATIVE SUBORDINATED
ADDITIONAL TIER 1 CAPITAL SECURITIES
TERMS AND CONDITIONS OF THE CAPITAL SECURITIES**

WARNING

The contents of this document have not been reviewed by any regulatory authority in Hong Kong. You are advised to exercise caution in relation to the issue and sale of the Capital Securities. If you are in any doubt about any of the contents of this document, you should obtain independent professional advice.

The issue of the U.S.\$200,000,000 undated non-cumulative subordinated Additional Tier 1 capital securities (the “**Capital Securities**”) was authorized by a resolution of the Board of directors of the Issuer passed on 16 November 2021.

1 FORM, DENOMINATION AND TITLE

- (A) **Form and Denomination:** The Capital Securities are issued in registered form in the denomination of U.S.\$250,000 each and integral multiples of U.S.\$1,000 in excess thereof (referred to as the "**principal amount**" of a Capital Security). The principal amount of a Capital Security is subject to adjustment following the occurrence of a Non-Viability Event (as defined in Condition 4(C)) in accordance with Condition 4(C) and references in these terms and conditions (the "**Conditions**") to the "**principal amount**" of a Capital Security shall mean the principal amount of a Capital Security as so adjusted. The Capital Securities are represented by registered certificates ("**Certificates**") and each Certificate shall represent the entire holding of Capital Securities by the same holder.
- (B) **Title:** Title to the Capital Securities passes only by registration in the register of Securityholder. The Securityholder of any Capital Security will (except as otherwise required by law) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any interest or any writing on, or the theft or loss of, the Certificate issued in respect of it) and no person will be liable for so treating the Securityholder.

2 TRANSFERS OF THE CAPITAL SECURITIES

- (A) **Transfers of interests in Registered Capital Securities:** The Issuer shall not transfer all or any of its rights or obligations under the Capital Securities without the consent of the Securityholder. The beneficial interest in capital securities shall not be transferable by the Securityholder unless prior written consent from the Issuer is obtained.
- (B) **Cost of Registration:** The Securityholder will not be required to bear the costs and expenses of effecting any registration of transfer as provided above, except for any costs or expenses of delivery other than by regular uninsured mail and except that the Issuer may require the payment of a sum sufficient to cover any stamp duty, tax or other governmental charge that may be imposed in relation to the registration.

- (C) **Closed Periods:** The Securityholder may not require the transfer of a Capital Security to be registered (i) during the period of 15 days prior to (and including) the due date of any payment of principal or Distributions in respect of the Capital Securities or (ii) during the period commencing on the date of the Non-Viability Event Notice (as defined in Condition 4(C) below) and ending on (and including) the close of business in Hong Kong on the effective date of the related Write-off.

3 STATUS, QUALIFICATION AND SUBORDINATION OF THE CAPITAL SECURITIES

- (A) **Status of the Capital Securities:** The Capital Securities constitute direct, unconditional, subordinated and unsecured obligations of the Issuer and shall at all times rank *pari passu* and without any preference among themselves. The rights and claims of the Securityholder are subordinated in the manner described below.
- (B) **Qualification of the Capital Securities:** The Capital Securities are intended to qualify as Additional Tier 1 capital of the Issuer pursuant to the Capital Regulations.
- (C) **Subordination:** Subject to the insolvency laws of Hong Kong and other applicable laws, in the event of a Winding-Up (as defined below) of the Issuer (other than pursuant to a Permitted Reorganisation (as defined below)), the rights of the Securityholder to payment of principal and Distributions on the Capital Securities, and any other obligations in respect of the Capital Securities, shall rank (i) subordinate and junior in right of payment to, and of all claims of (a) all unsubordinated creditors of the Issuer (including its depositors), (b) creditors in respect of Tier 2 Capital Instruments of the Issuer, and (c) all other Subordinated Creditors of the Issuer whose claims are stated to rank senior to the Capital Securities or rank senior to the Capital Securities by operation of law or contract; (ii) *pari passu* in right of payment to and of all claims of the holders of Parity Obligations; and (iii) senior in right of payment to and of all claims of the holders of Junior Obligations, in each case, present and future.

In the event of a Winding-Up that requires the Securityholder to provide evidence of their claim to principal or Distribution under the Capital Securities, such claims of the Securityholder will only be satisfied after all senior ranking obligations of the Issuer have been satisfied in whole. No amount may be claimed in respect of any Distribution that has been cancelled pursuant to a Mandatory Distribution Cancellation Event or an Optional Distribution Cancellation Event.

For the purposes of these Conditions:

"**Authorized Institution**" has the meaning given to that term in the Banking Ordinance;

"**Banking Ordinance**" means the Banking Ordinance (Cap. 155) of Hong Kong, as amended or superseded from time to time;

"**Capital Regulations**" means the Banking (Capital) Rules (Cap. 155L) of Hong Kong as amended or superseded from time to time, or any other capital regulations from time to time applicable to the regulatory capital of Authorized Institutions incorporated in Hong Kong issued or implemented by the Monetary Authority;

"Junior Obligation" means the Shares, and any other class of the Issuer's share capital and any instrument or other obligation issued, entered into or guaranteed by the Issuer that ranks or is expressed to rank junior to the Capital Securities by operation of law or contract;

"Monetary Authority" means the Monetary Authority appointed pursuant to Section 5A of the Exchange Fund Ordinance (Cap. 66) of Hong Kong;

"Parity Obligation" means any instrument or other obligation issued or entered into by the Issuer that constitutes or qualifies as Tier 1 Capital Instruments (or its equivalent) under the Capital Regulations or any instrument or other obligation issued, entered into or guaranteed by the Issuer that ranks or is expressed to rank *pari passu* with the Capital Securities by operation of law or contract, which for the avoidance of doubt, excludes any Junior Obligations of the Issuer;

"Permitted Reorganisation" means a solvent reconstruction, amalgamation, reorganisation, merger or consolidation whereby all or substantially all the business, undertaking or assets of the Issuer are transferred to a successor entity which assumes all the obligations of the Issuer under the Capital Securities;

"Shares" means the ordinary share capital of the Issuer;

"Subordinated Creditors" means all creditors the indebtedness of which is subordinated, in the event of the Winding-Up of the Issuer, in right of payment to the claims of depositors and other unsubordinated creditors of the Issuer other than those whose claims rank or is expressed to rank by operation of law or contract *pari passu* with, or junior to, the claims of the Securityholder. For this purpose indebtedness shall include all liabilities, whether actual or contingent;

"Tier 1 Capital Instruments" means any instrument or other obligation issued by the Issuer that constitutes Additional Tier 1 capital of (x) the Issuer, on an unconsolidated basis, or (y) the Group, on a consolidated basis pursuant to the Capital Regulations. For the avoidance of doubt, Tier 1 Capital Instruments does not include Shares;

"Tier 2 Capital Instruments" means any instrument or other obligation issued by the Issuer that constitutes Tier 2 capital of (x) the Issuer, on an unconsolidated basis, or (y) the Group, on a consolidated basis, pursuant to the Capital Regulations;

"Winding-Up" shall mean, with respect to the Issuer, a final and effective order or resolution for the bankruptcy, winding up, liquidation, administrative receivership or similar proceeding in respect of the Issuer (as applicable).

- (D) **Waiver of Set-off:** Subject to applicable law, no Securityholder may exercise, claim or plead any right of set-off, counter-claim or retention in respect of any amount owed to it by the Issuer arising under or in connection with the Capital Securities and each Securityholder shall, by virtue of being the Securityholder of any Capital Security be deemed to have waived all such rights of such set-off, counter-claim or retention.

In the event that any Securityholder nevertheless receives (whether by set-off or otherwise) directly in a Winding-Up Proceeding (as defined in Condition 9(B)) in respect

of the Issuer any payment by, or distribution of assets of, the Issuer of any kind or character, whether in cash, property or securities, in respect of any amount owing to it by the Issuer arising under or in connection with the Capital Securities, other than in accordance with this Condition 3(D), such Securityholder shall, subject to applicable law, immediately pay an amount equal to the amount of such payment or discharge to the liquidator for the time being in the Winding-Up of the Issuer for distribution and each Securityholder, by virtue of becoming a Securityholder of any Capital Security, shall be deemed to have so agreed and undertaken with and to the Issuer and all depositors and other unsubordinated creditors of the Issuer for good consideration.

4 DISTRIBUTIONS, HONG KONG RESOLUTION AUTHORITY POWER AND NON-VIABILITY LOSS ABSORPTION

(A) Distribution Payments

- (i) *Non-Cumulative Distribution:* Subject to Condition 4(B) below, the Capital Securities confer a right to receive distributions (each a "**Distribution**") on their principal amount (subject to adjustments following the occurrence of a Non-Viability Event in accordance with Condition 4(C)) from, and including, the Issue Date at the applicable Distribution Rate, payable semi-annually in arrear in equal instalments on 23 March and 23 September in each year (each a "**Distribution Payment Date**").

Distributions will not be cumulative and Distributions which are not paid in accordance with these Conditions will not accumulate or compound and a Securityholder will have no right to receive such Distributions at any time, even if subsequent Distributions are paid in the future, or be entitled to any claim in respect thereof against the Issuer. Unless otherwise provided in these Conditions, each Capital Security will cease to confer the right to receive any Distribution from the due date for redemption unless, upon surrender of the Certificate representing such Capital Security, payment of principal is improperly withheld or refused. In such event Distribution shall continue to accrue at such rate (both before and after judgment) until the date on which all amounts due in respect of such Capital Security have been paid.

No Securityholder shall have any claim in respect of any Distribution or part thereof cancelled and/or not due or payable pursuant to Conditions 4(A) and 4(B) below. Accordingly, such Distribution shall not accumulate for the benefit of the Securityholder or entitle the Securityholder to any claim in respect thereof against the Issuer.

- (ii) *Distribution Rate:* The rate of distribution (the "**Distribution Rate**") applicable to the Capital Securities shall be:
- (a) in respect of the period from, and including, the Issue Date to, but excluding, 23 March 2027, being the date falling five years after the Issue Date (the "**First Call Date**"), 3.34 per cent. per annum; and

- (b) in respect of a Reset Distribution Period, the relevant Reset Distribution Rate.

For the purposes of these Conditions:

"Calculation Agent" means CMB Wing Lung Bank Limited and shall include any successor as calculation agent.

"Calculation Business Day" means any day, excluding a Saturday and a Sunday, on which banks are open for general business (including dealings in foreign currencies) in New York City and Hong Kong.

"Calculation Date" means, in relation to a Reset Distribution Period, the third Calculation Business Day immediately preceding the relevant Distribution Reset Date on which such Reset Distribution Period commences.

"Comparable Treasury Issue" means the U.S. Treasury security selected by an independent bank of international repute (selected by the Issuer) as having a maturity of five years that would be utilised, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities with a maturity of five years.

"Comparable Treasury Price" means, with respect to any Calculation Date, the average of three Reference Treasury Dealer Quotations for the Calculation Date.

"Distribution Determination Date" means the day falling two Calculation Business Days prior to a Distribution Payment Date.

"Distributable Reserves" means the amounts for the time being available to the Issuer for distribution as a distribution in compliance with section 297 of the Companies Ordinance (Cap. 622) of Hong Kong, as amended or superseded from time to time, as at the date of the Issuer's audited balance sheet last preceding the relevant Distribution Payment Date, and subject to the Monetary Authority's current capital conservation requirements as applicable to the Issuer on the relevant Distribution Payment Date (the **"Available Amount"**); provided that if the Issuer reasonably determines that the Available Amount as at any Distribution Determination Date is lower than the Available Amount as at the date of the Issuer's audited balance sheet last preceding the relevant Distribution Payment Date and is insufficient to pay the Distributions and any payments due on Parity Obligations on the relevant Distribution Payment Date, then on certification by two Directors of the Issuer and the auditors of such revised amount, the Distributable Reserves shall for the purposes of Distributions mean the Available Amount as set forth in such certificate.

As at the date hereof, pursuant to section 297(1) of the Companies Ordinance (Cap. 622) of Hong Kong, the Issuer may only make a distribution out of profits available for distribution. For the purposes of section 297 of the Companies Ordinance (Cap. 622) of Hong Kong, the Issuer's profits available for distribution are its accumulated, realised profits, so far as not previously utilised by distribution or

capitalisation, less its accumulated, realised losses, so far as not previously written off in a reduction or reorganisation of capital.

"Distribution Reset Date" means the First Call Date and each day falling every five calendar years after the First Call Date.

"Issue Date" means 23 March 2022.

"Reference Treasury Dealer" means each of the three nationally recognised investment banking firms selected by the Calculation Agent that are primary U.S. Government securities dealers.

"Reference Treasury Dealer Quotations" means with respect to each Reference Treasury Dealer, the average, as determined by the Calculation Agent, of the bid and asked prices for the Comparable Treasury Issue, expressed in each case as a percentage of its principal amount, quoted in writing to the Calculation Agent by such Reference Treasury Dealer at 5:00 p.m. (New York City time), on the Calculation Date and such average then notified in writing to the Issuer and the Securityholder by the Calculation Agent.

"Reset Distribution Rate" means, in relation to a Reset Distribution Period, a fixed rate per annum (expressed as a percentage) equal to the aggregate of (a) the then-prevailing U.S. Treasury Rate (as determined as set out below) and (b) the Spread.

"Reset Distribution Period" means the period from, and including, a Distribution Reset Date to, but excluding, the immediately following Distribution Reset Date.

"Spread" means 1.49 per cent. per annum.

"U.S. Treasury Rate" means the rate in percentage per annum notified by the Calculation Agent to the Issuer and the Securityholder in accordance with Condition 12 equal to the yield on U.S. Treasury securities having a maturity of five years as set forth in the most recently published statistical release designated "H.15(519)" under the caption "Treasury constant maturities" (or any successor publication that is published weekly by the Board of Governors of the Federal Reserve System (<https://www.federalreserve.gov/releases/h15/>)) and that establishes yields on actively traded U.S. Treasury securities adjusted to constant maturity under the caption "Treasury constant maturities" for the maturity of five years) at 5:00 p.m. (New York time) on the Calculation Date. If such release (or any successor release) does not display the relevant yield at 5:00 p.m. (New York time) on the Calculation Date, **"U.S. Treasury Rate"** shall mean the rate in percentage per annum as notified by the Calculation Agent to the Issuer and the Securityholder in accordance with Condition 12 equal to the semi-annual equivalent yield to maturity of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for the Calculation Date. If there is no Comparable Treasury Price on the Calculation Date for whatever reason, **"U.S. Treasury Rate"** means the rate in percentage per annum as notified by the

Calculation Agent to the Issuer and the Securityholder in accordance with Condition 12 equal to the yield on U.S. Treasury securities having a maturity of five years as set forth in the most recently published statistical release designated "H.15(519)" under the caption "Treasury constant maturities" (or any successor publication that is published weekly by the Board of Governors of the Federal Reserve System (<https://www.federalreserve.gov/releases/h15/>) and that establishes yields on actively traded U.S. Treasury securities adjusted to constant maturity under the caption "Treasury constant maturities" for the maturity of five years) at 5:00 p.m. (New York time) on the last available date preceding the Calculation Date on which such rate was set forth in such release (or any successor release).

(iii) *Calculation of Distribution and Relevant Reset Distribution Rate:* The Calculation Agent will calculate the amount of Distribution in respect of any period by applying the applicable Distribution Rate to the Calculation Amount. If Distribution is required to be paid in respect of a Capital Security on any date other than the Distribution Payment Date, it shall be calculated by applying the applicable Distribution Rate to the Calculation Amount, multiplying the product by the relevant Day Count Fraction, rounding the resulting figure to the nearest cent (half a cent being rounded upwards) and multiplying such rounded figure by a fraction equal to the principal amount of such Capital Security divided by the Calculation Amount, where:

- (a) "**Calculation Amount**" means U.S.\$1,000, subject to adjustment following occurrence of a Non-Viability Event; and
- (b) "**Day Count Fraction**" means, in respect of any period, the number of days in the relevant period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with twelve 30-day months),

provided, however, that if the Calculation Agent is unable to determine a rate or (as the case may be) an arithmetic mean in accordance with the above provisions in relation to any Reset Distribution Period, the Reset Distribution Rate applicable to the Capital Security during such Reset Distribution Period will be the sum of the Spread and the rate or (as the case may be) the arithmetic mean last determined in relation to the Capital Security in respect of a preceding Reset Distribution Period.

The Calculation Agent will on the Calculation Date prior to each Distribution Reset Date, calculate the applicable Reset Distribution Rate payable in respect of each Capital Security. The Calculation Agent will cause the Distribution and applicable Reset Distribution Rate determined by it to be promptly notified to the Issuer and the Securityholder.

All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of this Condition 4(A) by the Calculation Agent will (in the absence of manifest error) be binding on the Issuer and the Securityholder and no liability to any such person

will attach to the Calculation Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions for such purposes unless caused directly by the fraud, gross negligence or wilful default of the Calculation Agent.

- (iv) *Publication of Relevant Reset Distribution Rate:* The Issuer shall cause notice of the then applicable Reset Distribution Rate to be notified to the Securityholder as soon as practicable in accordance with Condition 12 after determination thereof.
- (v) *Determination or Calculation by Successor Calculation Agent:* If the Calculation Agent does not at any time for any reason so determine the applicable Reset Distribution Rate, the Issuer shall as soon as practicable appoint a reputable financial institution of good standing as a successor calculation agent to do so and such determination or calculation shall be deemed to have been made by the Calculation Agent. In doing so, the successor calculation agent shall apply the foregoing provisions of this Condition 4(A), with any necessary consequential amendments, to the extent that, in the opinion of the successor calculation agent, it can do so and, in all other respects it shall do so in such manner as it shall deem fair and reasonable in all the circumstances.

(B) Distribution Restrictions

- (i) *Optional Distribution Cancellation Event:* Unless a Distribution has already been cancelled in full pursuant to a Mandatory Distribution Cancellation Event (as defined below), prior to any Distribution Payment Date the Issuer may, at its sole discretion, elect to cancel any payment of a Distribution, in whole or in part, by giving a notice to the Securityholder signed by a Director of the Issuer which shall be conclusive and binding on the Securityholder (a "**Distribution Cancellation Notice**") at least 10 business days prior to the relevant Distribution Payment Date. The Issuer shall have no obligation to pay any Distribution on any Distribution Payment Date if it validly elects not to do so in accordance with this Condition 4(B)(i) and any failure to pay such Distribution shall not constitute an Event of Default. Distributions are non-cumulative and any Distribution that is cancelled shall therefore not be payable at any time thereafter, whether in a Winding-Up or otherwise. In this Condition 4, "**business day**" means a day (other than a Saturday or a Sunday) on which banks and foreign exchange markets are open for business in the relevant place of presentation (if presentation and/or surrender of such Capital Security is required) and in New York City and Hong Kong.
- (ii) *Mandatory Distribution Cancellation Event:* Notwithstanding that a Distribution Cancellation Notice may not have been given, the Issuer shall not be obliged to pay, and shall not pay, any Distribution on the applicable Distribution Payment Date, in whole or in part, as applicable, if and to the extent that:
 - (a) the Distribution scheduled to be paid together with any dividends, distributions or other payments scheduled to be paid or made during the Issuer's then current fiscal year on any Parity Obligations and any instruments which rank or are expressed to rank *pari passu* with any Parity

Obligations shall exceed Distributable Reserves as at such Distribution Determination Date; or

- (b) the Monetary Authority directs the Issuer to cancel such Distribution (in whole or in part) or applicable Hong Kong banking regulations or other requirements of the Monetary Authority prevent the payment in full of dividends or other distributions when due on Parity Obligations,

(each a "**Mandatory Distribution Cancellation Event**").

The Issuer shall have no obligation to pay any Distribution on any Distribution Payment Date if such non-payment is in accordance with this Condition 4(B)(ii) and any failure to pay such Distribution shall not constitute an Event of Default. Distributions are non-cumulative and any Distribution which is cancelled in accordance with these Conditions shall not be payable at any time thereafter, whether in a Winding-Up or otherwise.

- (iii) *Distributable Reserves*: Any Distribution may only be paid out of Distributable Reserves.
- (iv) *Dividend Stopper*: If, on any Distribution Payment Date, payment of Distribution scheduled to be paid is not made in full by reason of this Condition 4(B), the Issuer shall not:
 - (a) declare or pay in cash any distribution or dividend or make any other payment in cash on, and will procure that no distribution or dividend in cash or other payment in cash is made on, any Shares; or
 - (b) purchase, cancel or otherwise acquire any Shares or permit any of its Subsidiaries to do so,

in each case, unless or until the earlier of: (x) the Distribution scheduled to be paid on any subsequent Distribution Payment Date (which, for the avoidance of doubt, shall exclude any Distribution that has been cancelled in accordance with these Conditions prior to such subsequent Distribution Payment Date in respect of a Distribution Payment Date preceding such subsequent Distribution Payment Date) has been paid in full (1) to the Securityholder or (2) irrevocably to a designated third party trust account for the benefit of the Securityholder, or (y) the redemption or purchase and cancellation of the Capital Securities in full, or reduction of the principal amount of the Capital Securities to zero in accordance with these Conditions, or (z) the Issuer is permitted to do so by approval in writing of the Securityholder.

- (v) *No Default*: Notwithstanding any other provision in these Conditions, the cancellation or non-payment of any Distribution in accordance with this Condition 4(B) shall not constitute a default for any purpose (including, without limitation, pursuant to Condition 9(A)) on the part of the Issuer.
- (C) **Non-Viability Loss Absorption**: If a Non-Viability Event occurs and is continuing, the Issuer shall, by the provision of a Non-Viability Event Notice, irrevocably (without the

need for the consent of the Securityholder) reduce the then prevailing principal amount of, and cancel any accrued but unpaid Distribution in respect of, each Capital Security (in each case in whole or in part) by an amount equal to the Non-Viability Event Write-off Amount per Capital Security (such reduction and cancellation, and the reduction and cancellation or conversion of any other Subordinated Capital Instruments so reduced and cancelled or converted upon the occurrence of a Non-Viability Event, where applicable, being referred to herein as the "**Write-off**", and "**Written-off**" shall be construed accordingly).

Concurrently with the giving of the Non-Viability Event Notice, the Issuer shall procure unless otherwise directed by the Monetary Authority that (i) a similar notice be given in respect of other Subordinated Capital Instruments in accordance with their terms and (ii) concurrently and rateably with the Write-off of the Capital Securities, the aggregate principal amount of such other Parity Capital Instruments is subject to a Write-off on a *pro-rata* basis with the Capital Securities.

Any Capital Security may be subject to one or more Write-offs in part (as the case may be), except where such Capital Security has been Written-off in its entirety. Any references in these Conditions to principal in respect of the Capital Securities shall thereafter refer to the principal amount of the Capital Securities reduced by any applicable Write-off(s).

Once any principal amount of, and any accrued but unpaid Distribution under, the Capital Securities has been Written-off, it will not be restored in any circumstances including where the relevant Non-Viability Event ceases to continue. Any Write-off pursuant to this provision will not constitute an Event of Default under the Capital Securities.

No Securityholder may exercise, claim or plead any right to any Non-Viability Event Write-Off Amount, and the Securityholder shall, by virtue of its holding of any Capital Securities, be deemed to have waived all such rights to such Non-Viability Event Write-Off Amount.

For the purposes of this Condition 4(C):

"Non-Viability Event" means the earlier of:

- (a) the Monetary Authority notifying the Issuer in writing that the Monetary Authority is of the opinion that a Write-off or conversion is necessary, without which the Issuer would become non-viable; and
- (b) the Monetary Authority notifying the Issuer in writing that a decision has been made by the government body, a government officer or other relevant regulatory body with the authority to make such a decision, that a public sector injection of capital or equivalent support is necessary, without which the Issuer would become non-viable.

"Non-Viability Event Notice" means the notice which shall be given by the Issuer not more than two Hong Kong Business Days after the occurrence of a Non-Viability Event, to the Securityholder, in accordance with Condition 12 and which shall state:

- (a) in reasonable detail the nature of the relevant Non-Viability Event; and
- (b) the Non-Viability Event Write-off Amount for (i) each Capital Security and (ii) each other Subordinated Capital Instrument in accordance with its terms.

"Non-Viability Event Write-off Amount" means the amount of distributions and/or principal to be Written-off as the Monetary Authority may direct or, in the absence of such a direction, as the Issuer shall (in consultation with the Monetary Authority) determine to be necessary to satisfy the Monetary Authority that the Non-Viability Event will cease to continue. For the avoidance of doubt, (a) the full amount of the Capital Securities will be Written-off in full in the event that the amount Written-off is not sufficient for the Non-Viability Event to cease to continue and (b) in the case of an event falling within paragraph (b) of the definition of Non-Viability Event, the Write-off will be effected in full before any public sector injection of capital or equivalent support.

Further, the Non-Viability Event Write-off Amount in respect of each Capital Security will be calculated based on a percentage of the principal amount of that Capital Security.

"Parity Capital Instrument" means any Parity Obligation which contains provisions relating to a write-down or conversion into ordinary shares in respect of its principal amount on the occurrence, or as a result, of a Non-Viability Event and in respect of which the conditions (if any) to the operation of such provisions are (or with the giving of any certificate or notice which is capable of being given by the Issuer, would be) satisfied.

"Subordinated Capital Instrument" means any Junior Obligation or Parity Obligation which contains provisions relating to a write-down or conversion into ordinary shares in respect of its principal amount on the occurrence, or as a result, of a Non-Viability Event and in respect of which the conditions (if any) to the operation of such provisions are (or with the giving of any certificate or notice which is capable of being given by the Issuer, would be) satisfied.

(D) Hong Kong Resolution Authority Power: Notwithstanding any other term of the Capital Securities, including without limitation Condition 4(C), or any other agreement or arrangement, each Securityholder shall be subject, and shall be deemed to agree, be bound by and acknowledge that they are each subject, to having the Capital Securities being written off, cancelled, converted or modified, or to having the form of the Capital Securities changed, in the exercise of any Hong Kong Resolution Authority Power by the relevant Hong Kong Resolution Authority without prior notice and which may include (without limitation) and result in any of the following or some combination thereof:

- (a) the reduction or cancellation of all or a part of the principal amount of, or Distributions on, the Capital Securities;
- (b) the conversion of all or a part of the principal amount of, or Distributions on, the Capital Securities into shares or other securities or other obligations of the Issuer or another person (and the issue to or conferral on the holder of such shares, securities or obligations), including by means of an amendment, modification or variation of the terms of the Capital Securities; and

- (c) the amendment or alteration of the maturity of the Capital Securities or amendment or alteration of the amount of Distributions payable on the Capital Securities, or the date on which the Distributions become payable, including by suspending payment for a temporary period, or any other amendment or alteration of these Conditions.

With respect to (a), (b) and (c) above of this Condition 4(D), references to principal and Distributions shall include payments of principal and Distributions that have become due and payable (including principal that has become due and payable at the redemption date), but which have not been paid, prior to the exercise of any Hong Kong Resolution Authority Power. The rights of the Securityholder under the Capital Securities and these Conditions are subject to, and will be amended and varied, if necessary, solely to give effect to, the exercise of any Hong Kong Resolution Authority Power by the relevant Hong Kong Resolution Authority.

No repayment of the principal amount of the Capital Securities or payment of Distributions on the Capital Securities shall become due and payable or be paid after the exercise of any Hong Kong Resolution Authority Power by the relevant Hong Kong Resolution Authority with respect to the Capital Securities unless, at the time that such repayment or payment, respectively, is scheduled to become due, such repayment or payment would be permitted to be made by the Issuer under the laws and regulations applicable to the Issuer and the Group.

Upon the exercise of any Hong Kong Resolution Authority Power by the relevant Hong Kong Resolution Authority with respect to the Capital Securities, the Issuer shall provide a written notice as soon as practicable regarding such exercise of the Hong Kong Resolution Authority Power to the Securityholder in accordance with Condition 12.

Neither the reduction or cancellation, in part or in full, of the principal amount of, or Distributions on the Capital Securities, the conversion thereof into another share, security or obligation of the Issuer or another person, or any other amendment or alteration of these Conditions as a result of the exercise of any Hong Kong Resolution Authority Power by the relevant Hong Kong Resolution Authority with respect to the Issuer nor the exercise of the Hong Kong Resolution Authority Power by the relevant Hong Kong Resolution Authority with respect to the Capital Securities shall constitute an Event of Default under Condition 9(A).

*The Financial Institutions (Resolution) Ordinance, as amended or superseded from time to time (the "**Ordinance**") was passed by the Legislative Council of Hong Kong and published in the gazette of the Hong Kong Special Administrative Region Government in June 2016. The Ordinance came into effect on 7 July 2017 and all licensed banks in Hong Kong are subject to the Ordinance.*

For the purposes of these Conditions:

"Group" means the Issuer and its Subsidiaries

"Hong Kong Resolution Authority Power" means any power which may exist from time to time under the Ordinance relating to financial institutions including licensed

banks, deposit-taking companies, restricted licence banks, banking group companies, insurance companies and/or investment firms incorporated in or authorised, designated, recognised or licensed to conduct regulated financial activities in Hong Kong in effect and applicable in Hong Kong to the Issuer or other members of the Group (including, for the avoidance of doubt, powers under Part 4 and Part 5 of the Ordinance) or any other laws, regulations, rules or requirements relating thereto, as the same may be amended from time to time (whether pursuant to the Ordinance or otherwise), and pursuant to which obligations of a licensed bank, deposit-taking company, restricted licence bank, banking group company, insurance company or investment firm or any of its affiliates can be reduced, cancelled, transferred, modified and/or converted into shares or other securities or obligations of the obligor or any other person.

"**relevant Hong Kong Resolution Authority**" means any authority with the ability to exercise a Hong Kong Resolution Authority Power in relation to the Issuer from time to time.

"**Subsidiary**" means any entity whose financial statements at any time are required by law or in accordance with generally accepted accounting principles to be consolidated with those of the Issuer.

5 REDEMPTION AND PURCHASE

- (A) **No Fixed Redemption Date:** The Capital Securities are perpetual securities in respect of which there is no fixed redemption date. The Capital Securities may not be redeemed at the option of the Issuer other than in accordance with this Condition.
- (B) **Redemption for Tax Reasons:** Subject to Condition 5(G), the Capital Securities may be redeemed at the option of the Issuer in whole, but not in part, at any time, on giving not less than 30 nor more than 60 days' notice to the Securityholder in accordance with Condition 12 (which notice, in each case, shall be irrevocable and shall specify the date fixed for redemption), if:
 - (a) (i) the Issuer has or will become obliged to pay additional amounts as provided or referred to in Condition 7 as a result of any change in, or amendment to, the laws or regulations of Hong Kong or any political subdivision or any authority thereof or therein having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after 15 March 2022, or (ii) as a result of any change in, or amendment to, the laws or regulations of Hong Kong (1) the Issuer would not, in respect of the payment of Distribution on the Capital Securities, be entitled to claim a deduction in respect of computing its taxation liabilities in Hong Kong, or such entitlement is materially reduced, or (2) the Issuer would not, to any material extent, be entitled to have such deduction set against its profits for applicable Hong Kong tax purposes; and
 - (b) such obligation will apply on the occasion of the next payment due in respect of the Capital Securities and cannot be avoided by the Issuer taking reasonable measures available to it,

provided that no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Issuer would be obliged to pay such additional amounts or claim a tax deduction in respect of the payment of Distribution were a payment in respect of the Capital Securities then due.

Prior to the publication of any notice of redemption pursuant to this Condition 5(B), the Issuer shall deliver to the Securityholder (i) a certificate signed by two Directors of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer to redeem have occurred, and an opinion of independent legal advisers of recognised international standing to the effect that the Issuer has or will become obliged to pay such additional amounts as a result of such change or amendment, and (ii) a copy of the written consent of the Monetary Authority as referred to in Condition 5(G), in which event it shall be conclusive and binding on the Securityholder.

Capital Securities redeemed pursuant to this Condition 5(B) will be redeemed at their outstanding principal amount together (if appropriate) with Distributions accrued to (but excluding) the date of redemption, subject to adjustment following the occurrence of a Non-Viability Event in accordance with Condition 4(C).

- (C) **Redemption of the Capital Securities for Regulatory Reasons:** Subject to Condition 5(G), the Capital Securities may be redeemed at the option of the Issuer in whole, but not in part, at any time on giving not less than 30 nor more than 60 days' notice to the Securityholder in accordance with Condition 12 (which notice, in each case, shall be irrevocable and shall specify the date fixed for redemption) following the occurrence of a Regulatory Redemption Event.

For the purposes of this Condition 5(C), a "**Regulatory Redemption Event**" occurs if immediately before the giving of the notice of redemption referred to in this Condition 5(C) the Capital Securities, after having qualified as such, will no longer qualify (in whole but not in part) as Additional Tier 1 capital (or the equivalent) of the Issuer (other than non-qualification solely as a result of any discounting or amortisation requirements as to the eligibility of the Capital Securities for such inclusion pursuant to the relevant legislation and supervisory guidelines in force from time to time), as a result of a change in, or amendment to, (or any change in the application or official interpretation of) the relevant provisions of the Banking Ordinance, the Banking (Capital) Rules (Cap. 155L) (as amended) of Hong Kong, or any successor legislation or regulations made thereunder, or any supervisory guidance issued by the Monetary Authority in relation thereto, **provided, however, that** no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which it is determined that a Regulatory Redemption Event has occurred.

Prior to giving any notice of redemption pursuant to this Condition 5(C), the Issuer shall deliver to the Securityholder (i) a certificate signed by two Directors of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer to redeem have occurred, (ii) an opinion of independent legal advisers of recognised standing to the effect that a Regulatory Redemption Event has occurred and (iii) a copy of the written consent of the

Monetary Authority referred to in Condition 5(G), in which event it shall be conclusive and binding on the Securityholder.

Capital Securities redeemed pursuant to this Condition 5(C) will be redeemed at their outstanding principal amount together (if appropriate) with Distributions accrued to (but excluding) the date of redemption, subject to adjustment following the occurrence of a Non-Viability Event in accordance with Condition 4(C).

- (D) **Redemption at the Option of the Issuer:** Subject to Condition 5(G), the Issuer may, on giving not less than 15 nor more than 30 days' notice to the Securityholder in accordance with Condition 12 (which notices shall be irrevocable and shall specify the date fixed for redemption), redeem all but not some only of the Capital Securities then outstanding on the First Call Date or any Distribution Payment Date thereafter. Any such redemption of Capital Securities shall be at their outstanding principal amount together (if appropriate) with Distributions accrued to (but excluding) the date of redemption, subject to adjustment following the occurrence of a Non-Viability Event in accordance with Condition 4(C).

For the avoidance of doubt, the Issuer does not provide any undertaking that it will redeem the Capital Securities at any time.

- (E) **Purchase:** Subject to Condition 5(G), the Issuer and any of its Subsidiaries may, at any time, purchase Capital Securities in the open market or otherwise at any price.
- (F) **Cancellation:** All Capital Securities purchased by or on behalf of the Issuer or any of its Subsidiaries shall be cancelled forthwith. Any Certificates so surrendered for cancellation may not be reissued or resold and the obligations of the Issuer in respect of any such Capital Securities shall be discharged.
- (G) **Conditions for Redemption and Purchase in Respect of the Capital Securities:**

Notwithstanding any other provision in these Conditions, the Capital Securities may not be redeemed or purchased and cancelled (other than pursuant to Condition 9(A)) without the prior written consent of the Monetary Authority. Accordingly, the Issuer shall not redeem any of such Capital Securities other than pursuant to Condition 9(A) or purchase and cancel the Capital Securities unless the prior written consent of the Monetary Authority thereto shall have been obtained provided, however, that if from time to time the consent of the Monetary Authority is not a requirement for any such Capital Securities to constitute Additional Tier 1 capital (or equivalent) of the Issuer for the purposes of the Banking Ordinance, or any successor legislation, then the condition to the redemption or purchase and cancellation of the Capital Securities set out in this Condition 5(G) shall not apply for so long as such consent is not required.

6 PAYMENTS

- (A) **Method of payment:**

Payments in U.S. dollars will be made by credit or transfer to an account in U.S. dollar maintained by the payee with, or at the option of the payee, by a cheque in U.S. dollar drawn on, a bank in Hong Kong.

Payments will be subject in all cases to any fiscal or other laws and regulations applicable thereto in the place of payment, but without prejudice to the provisions of Condition 7.

- (B) **Payments Day:** If the date for payment of any amount in respect of any Capital Security is not a Payment Day (as defined below), the Securityholder thereof shall not be entitled to payment until the next following Payment Day in the relevant place and shall not be entitled to further Distribution or other payment in respect of such delay. For these purposes, "**Payment Day**" means any day which is a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in Hong Kong.

7 TAXATION

All payments of principal and distributions by or on behalf of the Issuer in respect of the Capital Securities shall be made free and clear of, and without withholding or deduction for, any taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or within Hong Kong or any authority therein or thereof having power to tax, unless such withholding or deduction is required by law. If the Issuer is required to make a deduction or withholding by or within Hong Kong, the Issuer shall pay such additional amounts as shall result in receipt by the Securityholder of such amounts as would have been received by them had no such withholding or deduction been required, except that no such additional amounts shall be payable with respect to any Capital Security:

- (i) *Other connection:* to, or to a third party on behalf of, a holder who is liable to such taxes, duties, assessments or governmental charges in respect of such Capital Securities by reason of his having some connection with Hong Kong other than the mere holding of the Capital Securities; or
- (ii) *Presentation more than 30 days after the Relevant Date:* presented (or in respect of which the Certificate representing it is presented) for payment more than 30 days after the Relevant Date except to the extent that the holder of it would have been entitled to such additional amounts on presenting it for payment on the thirtieth day.

As used in these Conditions, "**Relevant Date**" in respect of any Capital Security means the date on which payment in respect of it first becomes due or (if any amount of the money payable is improperly withheld or refused) the date on which payment in full of the amount outstanding is made or (if earlier) the date seven days after that on which notice is duly given to the Securityholder that, upon further presentation of the Capital Security (or relative Certificate) being made in accordance with these Conditions, such payment will be made, provided that payment is in fact made upon such presentation.

References in these Conditions to (a) "**principal**" shall be deemed to include any premium payable in respect of the Capital Securities, and all amounts in the nature of principal payable pursuant to Condition 5 or any amendment or supplement to it, (b) "**distributions**" shall be deemed to include all Distributions and all other amounts payable pursuant to Condition 4 or any amendment or supplement to it and (c) "**principal**" and/or "**distributions**" shall be deemed to include any additional amounts that may be payable under this Condition 7.

8 PRESCRIPTION

Claims against the Issuer for payment in respect of the Capital Securities shall be prescribed and become void unless made within 10 years (in the case of principal) or five years (in the case of Distribution) from the Relevant Date (as defined in Condition 7).

9 EVENTS OF DEFAULT AND WINDING-UP PROCEEDING

- (A) **Events of Default:** If default is made in the payment of any amount of principal or Distributions in respect of the Capital Securities on the due date for payment thereof and such failure continues for a period of five days in the case of principal or 14 days in the case of Distribution (each, an "**Event of Default**") then any holder of a Capital Security may institute a Winding-Up Proceeding in Hong Kong against the Issuer.
- (B) **Winding-Up Proceeding:** If an order is made or an effective resolution is passed for the Winding-Up of the Issuer in Hong Kong (except for the purposes of reconstruction, amalgamation or reorganisation the terms of which have previously been approved in writing by the Securityholder) (such event also, an "**Event of Default**"), the holder of any Capital Security may give written notice to the Issuer at its specified office that such Capital Security is immediately repayable, whereupon they shall become immediately due and payable at their outstanding principal amount together (if appropriate) with Distributions accrued to (but excluding) the date of actual payment, subject to adjustment following the occurrence of a Non-Viability Event in accordance with Condition 4(C), without further action or formality.

If a Write-off has occurred pursuant to these Conditions, such event shall not constitute an Event of Default under the Capital Securities.

In these Conditions, "**Winding-Up Proceeding**" means, with respect to the Issuer, proceedings in Hong Kong for the bankruptcy, liquidation, winding-up, administrative receivership, or other similar proceeding of the Issuer (as applicable).

10 ENFORCEMENT

Subject to applicable laws, no remedy (including the exercise of any right of set-off or analogous event) other than those provided for in Condition 9(A) and this Conditions 10 or submitting claims in the Winding-Up of the Issuer will be available to the holders of Capital Securities. Each holder of a Capital Security shall be deemed to agree and acknowledge that the rights of such holders under the terms of the Capital Securities shall be subject to anything done in exercise of the powers of any Hong Kong Resolution Authority Power by the relevant Hong Kong Resolution Authority as set out in Condition 4(D).

11 REPLACEMENT OF CERTIFICATES

If a Certificate is lost, stolen, mutilated, defaced or destroyed, it may be replaced, subject to applicable laws, regulations and stock exchange or other relevant authority regulations, at the specified office of the Issuer, on payment by the claimant of the fees and costs incurred in connection therewith and on such terms as to evidence, security and indemnity (which may provide, *inter alia*, that if the allegedly lost, stolen or destroyed Certificate is subsequently presented for payment, there

shall be paid to the Issuer on demand the amount payable by the Issuer in respect of such Certificates) and otherwise as the Issuer may require. Mutilated or defaced Certificates must be surrendered before replacements will be issued.

12 NOTICES

Any notice to be given for any purposes in relation to the Capital Securities shall be given in writing and, unless otherwise stated, may be made by hand delivery, courier or by facsimile. Any such notice shall be given as follows:

To the Issuer	CMB Wing Lung Bank Limited 45 Des Voeux Road Central Hong Kong Attention: Chief Financial Officer Facsimile number: (852) 2868-5807
To the Securityholder	China Merchants Bank Co., Ltd. 7088 Shenzhen Boulevard Futian District Shenzhen Guangdong Province China Attention: Head of Asset and Liability Management Department Facsimile number: (86) 755-83195555

or to such other address or facsimile number shall have been notified (in accordance with this Condition 12) to the other party. Any notice delivered by hand or sent by courier as set out above shall be deemed to have been given when received and any notice sent by facsimile transmission as set out above shall be deemed to have been given when received and confirmed by an activity report confirming such transmission was successfully completed.

13 CONTRACTS (RIGHTS OF THIRD PARTIES) ORDINANCE

No person shall have any right to enforce any term or condition of the Capital Securities under the Contracts (Rights of Third Parties) Ordinance (Cap. 632) of Hong Kong.

14 GOVERNING LAW AND JURISDICTION

- (A) **Governing Law:** The Capital Securities are governed by, and shall be construed in accordance with, the laws of Hong Kong.
- (B) **Jurisdiction:** The Courts of Hong Kong are to have exclusive jurisdiction to settle any disputes that may arise out of or in connection with any Capital Securities and accordingly any legal action or proceedings arising out of or in connection with any Capital Securities ("**Proceedings**") may be brought in such courts. The Issuer irrevocably submits to the jurisdiction of such courts and waives any objection to the Proceedings in such courts on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum.