

**Guidelines on the requirement of “substantive business operation”
under the Special Loan Guarantee Scheme and
SME Loan Guarantee Scheme**

The guidelines serve to provide a general outline and indicators on the aspects that may be considered on the requirement for “substantive business operation in Hong Kong” under the two loan guarantee schemes.

Background

2. Under the existing requirement, enterprises applying for the Special Loan Guarantee Scheme (SpGS) and the SME Loan Guarantee Scheme (SGS) must have substantive business operations in Hong Kong. An enterprise holding a shell business registration or having most of its main business operations outside Hong Kong will not be regarded as having substantive local business operations.

3. Given the diversity of business nature of individual enterprises, it will not be possible to have a definitive definition or exhaustive list of indicators to define the meaning of “substantive business operations”. Reference will be made to the following aspects in considering whether an enterprise has substantive business operations in Hong Kong:

- Y type of business operations in Hong Kong;
- Y volume / intensity / percentage of business operations in Hong Kong;
- Y capital investment in Hong Kong;
- Y number of employees in Hong Kong;
- Y information on customer / clients;
- Y duration of establishment of the company at the time of loan application;
- Y business or correspondence address;
- Y information / assessment by relevant financial and professional institutions; and
- Y assessability to Hong Kong Profits Tax.

4. In processing the applications or default claims, the Trade and Industry Department may request the participating lending institution (PLI) to provide documentary proof to show that the PLI has made reasonable efforts to ascertain that the borrowing enterprise has substantive business operations in Hong Kong in vetting and approving the loan application. Examples of documentary proof that may be required for consideration include:

- Y business sales and operations - invoices, receipts, business contracts, letters of credit, shipping documents, business plans, correspondence with and list of suppliers/creditors and buyers, records of stock purchased and goods sold, company visit report, etc;
- Y financial information – audited account, financial statement, bank statement, Profits Tax return and assessments issued by the Inland Revenue Department, etc; and
- Y employees’ information – records of contribution under the Mandatory Provident Fund Scheme or recognized occupational retirement schemes, employment contracts, etc.

5. The above list of indicators or aspects is by no means exhaustive. The PLIs should exercise their professional skill, judgment and care in processing every loan application under the schemes. The Trade and Industry Department reserves all rights to request the PLIs to make available the supporting documents obtained from the borrower for the purpose of processing the applications or default claims. In case of any disputes or doubts about the application of the guidelines, the decision made by Trade and Industry Department shall be final and conclusive.

6. The guidelines may be updated from time to time and the PLIs will be informed accordingly.