

JOINT ACCOUNTS – “SURVIVORS” CLAUSE

Introduction

1. Section 13A of the Banking Ordinance, 1941, with regard to a “joint account and joint safe-deposit box” establish the followings:

“Where a banking corporation receives monies or securities or other negotiable instruments in a joint account in respect of which it has been stipulated with the banking corporation that upon the death of one of the account holders, the surviving holder or a person legally acting by his authority shall be entitled to carry out operations in the said account, the stipulation shall, for the purposes of relations between the banking corporation and the holders of the account, have effect even after such death.”
2. Under this section of the law, banking corporations may continue to carry on the instructions of the surviving account holder without risking prosecution from other parties, such as the executor of the estate or the beneficiary of the deceased account holder. This section states explicitly that it applies “for the purposes of relations between the banking corporation and the holders of the account.”
3. The public mistakenly believes that the conditions regarding “survivors” in joint account forms has the ability to transfer assets such as monies or securities from the deceased account holder to the surviving holder. Legally, the terms regarding “survivors” have no such consequence, and the term alone is not sufficient to transfer assets on the day of death, as the instructions on a joint account forms do not constitute a will.
4. The law does not alter the substantive rights with regard to the relations between the surviving account holder and the beneficiaries of the deceased. Usually, the beneficiaries of the deceased account holder have rights to the account after the death of the deceased; in this respect, the “survivors” clause of a joint account does not have any affect on the rights of beneficiaries. Although banking corporations may enable the surviving account holder to withdraw monies or assets, the surviving account holder who has withdrawn monies or

assets may be required to return them, or part of them, to the beneficiaries of the deceased account holder.

Form for opening a joint account

5. In view of the aforesaid, banking corporations are requested to include a clarification in the forms in current use for opening joint accounts that the “survivors” clause applies only to the relations between the banking corporation and its customers, and does not alter the ownership relations between the holders of the joint account, or between them and their beneficiaries.

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