

# CHAPTER 1

## INTRODUCTION

- 1.1 The Hong Kong Monetary Authority (HKMA) was established on 1 April 1993. The policy objectives of the HKMA are -
- to maintain currency stability, within the framework of the Linked Exchange Rate system;
  - to promote the stability and integrity of the financial system, including the banking system;
  - to help maintain Hong Kong’s status as an international financial centre, including the maintenance and development of Hong Kong’s financial infrastructure; and
  - to manage the Exchange Fund.
- 1.2 The legal basis for the powers of the Monetary Authority (MA)<sup>1</sup> in relation to the regulation and supervision of banking business and the business of taking deposits is the Banking Ordinance (the Ordinance) (Cap. 155). Under the Ordinance, the MA is the authority responsible for all authorization matters. These include, among others, the authorization, suspension and revocation of all three types of authorized institution (see Chapter 2). The Ordinance also provides the necessary powers to the MA for the approval and supervision of money brokers (see Chapter 10).
- 1.3 In order to safeguard financial stability, it is also important to ensure that any failure of authorized institutions is orderly such that continuity in critical financial functions provided by the institutions to their customers can be maintained. To this end, the Financial Institutions (Resolution) Ordinance (FIRO) (Cap. 628) designates the MA as the resolution authority for all banking sector entities, which include, amongst others, all authorized institutions<sup>2</sup>. Under FIRO, the MA is vested with a range of powers to effect the orderly resolution of a non-viable systemically important bank for the purpose of maintaining financial stability, while seeking to protect public funds.
- 1.4 The MA is also responsible for the licensing and supervision of stored value facilities (SVF) and the designation and oversight of retail payment systems (RPS) in Hong Kong. The Payment Systems and Stored Value Facilities Ordinance (PSSVFO) (Cap. 584) provides the legal basis for the powers of the MA in relation to the regulation of SVF and RPS. For more details, please refer to the information published in the HKMA website (<http://www.hkma.gov.hk/eng/key-functions/international-financial-centre/regulatory-regime-for-svf-and-rps/>).

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<sup>1</sup> Legally, the MA is an individual appointed by the Financial Secretary under section 5A of the Exchange Fund Ordinance. The powers under the Banking Ordinance are personally vested in the MA. In practice, the MA heads an Office known as the “Hong Kong Monetary Authority” of which he is the Chief Executive.

<sup>2</sup> See section 2(1) of the FIRO for definition of “banking sector entity” and “resolution authority”.

- 1.5 The Guide to Authorization (the Guide) under the Ordinance is, as the name suggests, intended to provide guidance about the scheme of supervision contained in the Ordinance and the policies and approach of the MA in implementing it. While the Guide summarises a number of the principal provisions of the Ordinance and guidelines, which are contained in the Supervisory Policy Manual (SPM) or Code of Practice Chapters, it does not set out to analyse them all. Nor is it a comprehensive guide to the wide variety of issues that may confront the banking supervisors, resolution authority and authorized institutions. It is therefore not a substitute for appropriate legal and other professional advice in a given case. Parties seeking authorization are therefore advised to familiarise themselves not only with the Guide but also with the Ordinance and guidelines in the SPM.
- 1.6 The Guide is relevant both to institutions intending to seek approval to become authorized institutions or money brokers under the Ordinance and to existing authorized institutions and approved money brokers, as the authorization criteria are of a continuing nature. Failure to meet them by an existing authorized institution or an approved money broker would mean that the MA's powers of revocation would become exercisable in respect of that institution (although there is discretion on their use). It is therefore advisable that all authorized institutions and approved money brokers should familiarise themselves with the contents of this Guide.
- 1.7 Chapters 2 to 9 of this Guide address issues relating to authorized institutions. These chapters set out in detail the authorization regime in Hong Kong as well as the way in which institutions are authorized and supervised. Chapter 10 describes the legal framework for the supervision of money brokers and discusses the approval criteria and the grounds for revocation of approval of money brokers. The following is a brief summary of the contents of each chapter:
- (a) Chapter 2 describes the authorization regime under the Ordinance;
  - (b) Chapter 3 describes the legal and supervisory framework to which institutions authorized under the Ordinance are subject;
  - (c) Chapter 4 sets out the MA's interpretation of each of the minimum authorization criteria set out in the [Seventh Schedule](#) to the Ordinance;
  - (d) Chapter 5 sets out the MA's interpretation of each of the grounds for revocation and suspension of authorization as set out in the [Eighth Schedule](#) to the Ordinance;
  - (e) Chapter 6 describes the MA's powers under section 52 of the Ordinance for dealing with a problem authorized institution, including the power to appoint a Manager to take control of such an institution;
  - (f) Chapter 7 describes the restrictions on the use of the word "bank" in business names or descriptions;
  - (g) Chapter 8 describes the procedures for applying for authorization and how such applications are processed by the MA;

- (h) Chapter 9 sets out the principles which the MA will take into account in deciding whether to authorize “virtual banks”, i.e. banks that deliver services primarily through the internet or other electronic delivery channels; and
- (i) Chapter 10 describes the legal framework and sets out the MA’s interpretation of the minimum approval criteria for money brokers set out in the [Eleventh Schedule](#) to the Ordinance, as well as the MA’s interpretation of the grounds for revocation of approval of money brokers set out in the [Twelfth Schedule](#) to the Ordinance.

1.8 The information in this Guide is subject to change from time to time. While we try to keep the Guide up to date, institutions intending to seek approval to become authorized institutions or money brokers under the Ordinance and existing authorized institutions and approved money brokers should ensure their applications or existing operations meet the requirements of current legislation, regulations and guidelines contained in the SPM.