

Licensing requirements for banks

The HKMA has a general discretion under the Banking Ordinance to grant or refuse an application for authorization to operate a banking business or the business of taking deposits in Hong Kong. The HKMA is, however, obliged to refuse to authorize an applicant if any of the criteria specified in the Seventh Schedule to the Banking Ordinance is not fulfilled. The authorization criteria apply to institutions both at the time of, and after, authorization. The HKMA assesses whether these criteria are being complied with on a continuing basis, and failure to meet any of the criteria is a ground for revocation of authorization under the Eighth Schedule to the Ordinance.

All AIs (that is, licensed banks, restricted licence banks and deposit-taking companies) are subject to the same authorization criteria except that:

- the minimum capital requirement (including paid-up share capital and balance of share premium account) for licensed banks (HK\$300 million) is higher than that for restricted licence banks (HK\$100 million) and deposit-taking companies (HK\$25 million)
- only licensed banks are required to observe the minimum-size criteria (HK\$3 billion customer deposits and HK\$4 billion total assets).

The other criteria specified in the Seventh Schedule to the Banking Ordinance cover the internationally accepted principles of a prudent licensing system, including:

- in the case of an applicant incorporated outside Hong Kong, whether the applicant is a bank adequately supervised in its home country
- whether the chief executive, directors, controllers and executive officers of the applicant are “fit and proper”
- the adequacy of the systems of control for appointment of senior executives, who are referred to as “managers” under the Banking Ordinance
- the financial soundness of the applicant, in respect of capital, liquidity and asset quality
- the adequacy of internal controls and accounting systems
- whether the business of the applicant is, and will continue to be, carried out with integrity, prudence and competence.

Applicants incorporated in Hong Kong are required to maintain a capital adequacy ratio of at least 8%. Branches of foreign banks are not subject to this requirement, since the primary responsibility for supervising capital adequacy rests with the home supervisor. In practice, however, the HKMA generally requires any foreign bank that wishes to establish a branch in Hong Kong to maintain a capital adequacy ratio of at least 8%.

Detailed guidelines on the interpretation and application of the authorization criteria can be found in Chapter 4 of the *Guide to Authorization* published on the HKMA website.