

海外證券規管機構的管治架構

目前全球證券規管機構所採納的管治架構看來有兩大常見類別。

第一個是設有全職執行主席的管治架構模式。國際證監會組織技術委員會全部 15 個成員(如英國金融服務管理局，以下簡稱“英國金管局”)目前都是採用這個模式。

在第二個管治架構模式中，一名局長會獲轉授全部執行權力，而非執行主席則屬政治任命，即例如新加坡金融管理局(新加坡金管局)及瑞典金融事務監管局(瑞典金管局)所採納的模式。這模式在若干新興市場中獲採用。

英國金管局、新加坡金管局及瑞典金管局各自的管治架構將在 本附錄中詳細列出。

英國金融服務管理局

英國金管局自 2001 年 12 月 1 日起成為英國金融服務業的單一規管機構，由英國財政部委任的董事會管治。英國金管局的大部分董事會成員均為非執行董事。除主席及行政總裁外，目前董事會的成員還包括三名常務董事及 11 名非執行董事，當中一名非執行董事是英倫銀行副行長（金融穩定），而他亦是該局的當然董事。此外，其中一名非執行董事是副主席兼“首席”非執行董事。

英國金管局向財政部的有關部長負責，並透過該等部長向國會負責。法例規定，英國金管局必須每年向財政部匯報其達致有關法定目標的情況。然後，財政部長必須將有關報告提交國會省覽。

自戴維斯爵士(Sir Howard Davies)於 2003 年 9 月辭任英國金管局主席兼行政總裁的職務後，該局將上述首長職位分開由不同人士執掌：在 2003 年，Callum McCarthy 先生獲委任為英國金管局主席，而 John Tiner 先生則獲委任為行政總裁。英國金管局已就一份載列主席與行政總裁之間的職責劃分的文件達成協議，而該份文件亦已登載於該局的網站上(見附件)。

儘管英國金管局的主席並沒有獲正式稱為執行主席，但按照該局的年報所述¹，他明顯是該局的五名執行董事之一。正如英國金管局在 2005 年 4 月 21 日有關該局的管治的董事會決議所述，其主席、行政總裁或任何執行董事會成員可行使該局的任何職能，但以下情況除外：該職能以其他方式 (i) 保留給董事會；或 (ii) 保留給非執行委員會(“非執委”)²；或 (iii) 保留給規管決定委員會；或(iv) 在主席認為適當的情況下規定必須轉交董事會。此外，英國金管局的主席、行政總裁及任何執行董事會成員可透過一個稱為“執行委員會”或“執委會”，其成員可包括其他高級職員在內的高級職員委員會個別地行使歸屬其各人或上述任何人的職能。因此，英國金管局主席一職的“執行”性質非常清晰。

儘管英國金管局的主席對該局的日常運作並無任何屬執行性質的職責，但他收取可觀的報酬，並須花大部分的工作時間向英國國會作出闡釋、管理董事會、制定政策及各項工作的優先次序，以及在當地和國際層面上代表英國金管局。英國金管局的主席就該局的活動接受全面問責。

¹ 見英國金管局《2003/04 年報》第 68 頁有關董事薪酬部分。

² 非執委是根據《2000 年金融服務及市場法》附表 1 成立的。非執委的成員是該局董事會的全體非執行成員。其職能之一是釐定英國金管局的主席及其他執行董事的薪酬。

The Roles of the Chairman and the Chief Executive of the Financial Services Authority

Role of the Chairman

1. The Chairman has no executive responsibility for the day-to-day running of the FSA.
2. His key responsibilities are to:
 - i. establish and develop an effective Board;
 - ii. lead the Board as a team;
 - iii. plan and manage the Board's business;
 - iv. establish priorities for the FSA;
 - v. maintain and develop a productive relationship with the FSA Chief Executive, for whose recruitment he is responsible;
 - vi. with the Chief Executive, lead the communication of FSA policies with a wide range of constituencies. One purpose of this communication programme is to establish a clearer profile for the FSA, rather than one of an individual;
 - vii. represent the FSA on particular national and international financial institutions;
 - viii. establish and maintain high level contacts with the most important financial institutions worldwide;
 - ix. act as an accountability focus for the FSA, chairing its annual public meeting, giving evidence to select committees, and writing to the Chancellor (if needed) on the most significant issues arising under the formal exchange of letters of December 2000; and
 - x. represent the FSA in the most senior meetings of the Tripartite Standing Committee, alongside the Chancellor and Governor.
3. The Chairman discharges his responsibilities by ensuring:
 - i. the effectiveness of the Board in relation to (insofar as the Treasury can be influenced) the balance of Board appointments; the responsibilities, chairmanship and effectiveness of Board committees; the agenda for Board meetings; the relationship between executive and non-executive Board members; and the provision of appropriate, quality and timely information for directors;
 - ii. that the FSA's strategy is formulated clearly and is well understood internally and externally;
 - iii. that he provides a source of counsel and of challenge to the Chief Executive on how the FSA is run. This includes feedback to the Chief Executive on senior management performance, development and succession, and on organisational structure;
 - iv. regular evaluation of the performance of the Board, its committees and individual directors; and
 - v. that he is properly briefed on FSA business to enable him to discharge his duties as Chairman, and to represent the FSA publicly. The Chairman has an unlimited right to consult any FSA employee, require information on any aspect of FSA business, and attend any executive meeting within the FSA. He will not normally chair any executive committee.



Appendix (cont'd)

4. The Chairman and Chief Executive will discuss all major issues and emerging policies through frequent and normally informal meetings.
5. The Company Secretary will report to the Chairman.
6. The Chairman will chair the Appointments Committee of the Board.
7. The Chairman will represent the FSA on the Court of the Bank of England, CESR and the Financial Stability Forum.

Role of the Chief Executive

1. The Chief Executive is responsible for implementing the strategy agreed by the Board, in whose formulation he will have played a major part. He has the executive responsibility for the FSA's business under authority delegated to him by the FSA Board.
2. The key responsibilities of the Chief Executive are:
 - i. reporting regularly to the Board with appropriate, timely and quality information so the Board can discharge its responsibilities effectively
 - ii. informing and consulting the Chairman on all matters of significance to the Board so that the Chairman and Board can properly discharge their responsibilities;
 - iii. developing and delivering the strategic objectives agreed with the Board;
 - iv. recommending to the Board significant operational changes and major capital expenditures where these are beyond his delegated authority;
 - v. assigning responsibilities clearly to senior management and overseeing the establishment of effective risk management and control systems;
 - vi. recruiting, developing and retaining talented people to work at the FSA; and in particular establishing a strong management team which is fairly and fully evaluated;
 - vii. communicating throughout the FSA the strategic objectives and the values of the FSA agreed with the Board, and ensuring that these are achieved in practice;
 - viii. sharing with the Chairman and with other members of the FSA senior management the responsibility for communicating the FSA's messages externally;
 - ix. represent the FSA on selected international financial institutions.
3. All FSA staff, other than the Chairman's immediate staff and the Company Secretary, report to the Chief Executive.

This section of the Report contains audited information.

Directors' emoluments comprise:

	Board fee £	Salary £	Performance related bonuses £	Other emoluments and benefits £	2004 Total £	2003 Total £
Executive Directors						
Howard Davies (Chairman until 21.9.03) ^{1,3}	-	154,933	-	38,073	193,006	397,287
Callum McCarthy (Chairman from 22.9.03)	-	159,131	-	64,638	223,769	-
Michael Foot ³	-	262,500	39,000	44,675	346,175	322,017
Carol Sergeant	-	235,577	-	18,770	254,347	293,452
John Tiner ²	-	310,971	52,000	108,685	471,656	361,904
Non-executive Directors⁴						
Stewart Boyd (Deputy Chairman) ⁵	45,000	-	-	-	45,000	45,000
Moira Black ⁶	23,750	-	-	-	23,750	27,500
James Crosby	4,308	-	-	-	4,308	-
Tom De Swaan	20,000	-	-	-	20,000	20,000
Kyra Hazou	20,000	-	-	-	20,000	20,000
Deirdre Hutton	20,000	-	-	-	20,000	20,000
Sir Andrew Large ⁷	-	-	-	-	-	-
Gillian Nott	20,000	-	-	-	20,000	20,000
Christopher Rodrigues ⁸	13,846	-	-	-	13,846	20,000
Dr Shamit Saggar	20,000	-	-	-	20,000	20,000
Stephen Thieke	20,000	-	-	-	20,000	8,333
Sir Keith Whitson ⁸	3,333	-	-	-	3,333	20,000
Clive Wilkinson ⁶	23,750	-	-	-	23,750	20,000
	233,987	1,123,112	91,000	274,841	1,722,940	1,615,493
Of which fees for service as						
Directors	-	-	-	-	233,987	240,833
Remuneration as executives					1,488,953	1,374,660
					1,722,940	1,615,493

1 Howard Davies resigned as Chairman on 21 September 2003. The figure for other emoluments and benefits paid during the year includes £20,000 for the provision of advice during a three-month transitional period.

2 The total emoluments of the highest paid director during the year, John Tiner, were £471,656 (2003: £361,904), including a supplement of £47,741 (2003: £58,140), paid during the year towards the funding of his personal pension.

3 The prior year totals have been restated to include a revised estimate of the proportion of the costs of the car and driver with which the directors were provided.

4 The fee for a non-executive director was set by the independent panel, established with the approval of HMT, at £20,000 per annum with effect from 1 December 2001. An additional fee of £5,000 per annum is paid to any non-executive director (other than the Deputy Chairman) who has been appointed to chair a committee of the Board. There were none in this category during the year, as the Deputy Chairman or the Chairman chaired all relevant committees. Otherwise, the fee covers all duties as directors.

5 The fee payable to the Deputy Chairman was set by the independent panel at £45,000 per annum with effect from 1 December 2001.

6 Two directors chaired the Board of the FSA Pension Plan Trustee Ltd in the year; Moira Black from 1 April 2003 to 30 September 2003, and Clive Wilkinson from 1 October 2003 to 31 March 2004. The annual fee was set at £7,500 with effect from 1 April 2002 and was pro-rated between each director.

7 Sir Andrew Large waived his Board fee in respect of the year.

8 The fees for James Crosby (HBOS), Christopher Rodrigues (Bradford and Bingley plc) and Sir Keith Whitson (HSBC Holdings plc) were paid direct to their employers, as shown in brackets. Christopher Rodrigues and Sir Keith Whitson retired during the year and their fees were pro-rated. James Crosby's fee is paid to charity by HBOS.

49. The Committee is accountable to the Board in respect of its procedures, policies and general arrangements, but this does not affect its independence in relation to its individual decisions.

Decisions by executive board members

50. The Chairman, Chief Executive, or any executive board member may exercise any function of the Authority except where:
- (a) the function is a legislative function reserved by the Act to the Board;
 - (b) the function is a non-executive function reserved by the Act to the Non-Executive Committee;
 - (c) the function involves a decision which the Authority's decision-taking manual reserves to the Regulatory Decisions Committee; or
 - (d) he considers that the matter requires to be referred to the Board.
51. The Deputy Chairman may discharge any such function in any case of urgency where it is not practicable for the Board, Chairman, Chief Executive, or other executive board member to discharge the function.
52. The Chairman, Chief Executive, and executive board members may exercise functions individually vested in each or any of them through a senior staff committee, known as 'the Executive Committee', or 'ExCo', which may include other senior members of staff.

Delegation of decision-making

53. The Chairman, Chief Executive, or any executive director with authority to make a decision may delegate that authority (and, if he chooses, the authority to make further delegations) to one or more individuals or committees.
54. Where functions vested in the Chairman, Chief Executive, or any executive director are exercisable by them through ExCo, ExCo may similarly delegate that authority to one or more individuals or committees.
55. Any new delegation must provide for:
- (a) decisions to be made at an appropriate level;
 - (b) a clear line of accountability to the Board;
 - (c) any person with authority to take a decision to be entitled instead to refer it to a person or committee which is more senior in the line of command;
 - (d) decisions to be taken in accordance with the Authority's decision-taking procedures.

新加坡金融管理局

新加坡金融管理局(新加坡金管局)於 1971 年 1 月 1 日成立，負責執行各項有關貨幣、銀行業、保險、證券及整個金融界的法規。新加坡金管局於 2002 年 10 月 1 日與貨幣專員委員會(Board of Commissioners of Currency)合併後，亦兼負發行貨幣的職能。

新加坡金管局按照其董事會的指示營運，而董事會則由總統委任。總統依據內閣的建議委任董事會主席。現任新加坡金管局主席是國務資政吳作棟先生³。

董事會負責新加坡金管局的政策及各項事宜和事務的一般管理，並知會政府有關新加坡金管局的銀行及信貸政策。董事會透過專責新加坡金管局事務的部長向新加坡國會接受最終問責。

董事會由主席會議、貨幣及投資政策會議、稽核委員會及風險委員會提供協助。

主席會議就監管架構及監督政策的重大更改作出決定。該會議亦會核准涉及金融中心發展、國際及區內關係的政策及策略上的主要更改。

至於日常的行政，《新加坡金融管理局法》賦權董事總經理作出決策及行使新加坡金管局可以行使的一切權力。現任新加坡金管局董事總經理是許永源先生，其本身亦是董事會成員之一。

³ 他是新加坡前任總理。

瑞典金融事務監管局

瑞典金融事務監管局(瑞典金管局屬公共機構、集監管機構及監督機關於一身，負責認可、監督及監察所有在瑞典金融市場上經營的公司。瑞典金管局接受財政部問責。

瑞典金管局的董事會由瑞典政府委任，由包括主席在內的九名成員所組成。所有董事會成員(包括主席)都屬非執行董事。由於瑞典設有相當嚴格的利益衝突規則，金融機構的行政人員都不可獲委任為該局董事會的成員。該局現任主席是瑞典其中一個主要反對黨的前任黨魁。

該局的局長由瑞典政府委任(現任局長是 Ingrid Bonde 女士)。雖然局長是負責瑞典金管局的日常運作的執行人員，但 Bonde 女士並非董事會成員，但她參與所有董事會會議。瑞典金管局的局長只可由政府任命及罷免。

瑞典金管局的董事會成員及該局局長的薪酬由瑞典政府釐定。

瑞典金管局的所有權力在法律上歸屬該局，而其董事會與局長之間的職責劃分則在董事會的決定內以書面加以記錄。

大致而言，該局董事會就主要性質的事宜作出決定，例如重要的新規例、具爭議性的申請及對主要人士或公司施加的制裁。此外，該局董事會亦會商討策略事宜及主要營運範疇的事項，例如對瑞典金管局的工作表現及融資需要的評估。

瑞典金管局的局長負責就所有事宜(正由董事會處理的事宜則除外)作出決定，當中包括如組織事宜及內部財政預算等所有營運事宜。瑞典金管局的局長是該局在所有情況中及在國際層面上“面向公眾的代表”，同時又是瑞典金管局的“問責代表”，負責在瑞典國會席前回答有關瑞典金管局的提問。