

For information

Legislative Council Panel on Financial Affairs

The Appointment and Tenure of Office of the Monetary Authority

Purpose

This paper provides information on the mechanism for the appointment of the Monetary Authority (MA) and the appointment arrangements for central bank heads in some overseas economies.

Background

2. The Hong Kong Monetary Authority (HKMA) was established on 1 April 1993. The MA is appointed under the Exchange Fund Ordinance (EFO) (Cap. 66) to assist the Financial Secretary (FS) in performing his functions under the EFO and to perform such other functions as are assigned by other ordinances or by the FS. The office of the MA is known as the HKMA and the MA is the Chief Executive of the HKMA. The HKMA is an integral part of the Hong Kong Special Administrative Region Government.

3. The powers, functions and responsibilities of the MA are set out in the EFO, the Banking Ordinance (Cap. 155), the Deposit Protection Scheme Ordinance (Cap. 581), the Clearing and Settlement Systems Ordinance (Cap. 584) and other relevant ordinances. In its day-to-day work, the HKMA operates with a high degree of autonomy within the relevant statutory powers conferred upon the MA.

Mechanism for the Appointment of the MA

4. Section 5A(1) of the EFO provides that the FS shall appoint a person to be the MA on such terms and conditions as he thinks fit. The legal provision in the EFO allows maximum flexibility for the FS in determining the appropriate conditions on which the MA is appointed.

5. The HKMA is responsible for banking supervision and Exchange Fund management. It performs an important role in implementation of monetary policy and promotion of the general stability and effective working of the banking system. Given the HKMA's pivotal role, the FS, in considering the MA's appointment, will take into account all relevant factors such as the ability, experience and age of the potential candidates and the views of the Governance Sub-committee of the Exchange Fund Advisory Committee as appropriate.

Appointment Arrangements for Central Bank Heads in Some Overseas Economies

6. We have conducted a research on the appointment arrangements for central bank heads in a number of major overseas economies, which include the United States, the United Kingdom, the European Union, Australia and Japan. The authority for determining the terms and conditions related to the appointment of these central bank heads is set out in respective statutes. Relevant details are set out in the ensuing paragraphs.

The United States Federal Reserve

7. The appointment arrangement for the Chairman of the Federal Reserve Board is provided for in the Federal Reserve Act.

8. Section 10 of the Federal Reserve Act stipulates that the Chairman of the Federal Reserve Board shall be designated by the President from among the sitting Governors of the Federal Reserve Board¹, by and with the advice and consent of the Senate. The term of appointment for the Chairman shall be four years. The Chairman may be reappointed, subject to the expiry of the candidate's term as a member of the Board of Governors.

¹ The Federal Reserve Board comprises seven members who are nominated by the President and confirmed by the Senate. The full term of a Governor is 14 years. A Governor who has served a full term may not be reappointed.

The Bank of England

9. The Bank of England Act 1998 provides the statutory basis for the appointment arrangement for the Governor of the Bank of England. Section 1(2) of the Act provides that the Governor of the Bank of England and other members of the Court of Directors of the Bank shall be appointed by the Crown.

10. Schedule 1 of the Act prescribes that a person is disqualified for appointment as the Governor of the Bank of England if he or she is a Minister of the Crown or a person serving in a government department in employment in respect of which remuneration is payable out of money provided by the Parliament. The term of appointment for the Governor shall be five years, with no restriction on renewal. The Governor can be removed from office by the Bank, with the consent of the Chancellor of the Exchequer, if the Governor has been absent from meetings of the Court of directors for more than three months without the consent of the Court, has become bankrupt, or is unable or unfit to discharge his or her functions.

The European Central Bank

11. The appointment arrangement for the President of the European Central Bank is set out in the Protocol on the Statute of the European System of Central Banks and of the European Central Bank.

12. Article 11 of the Protocol stipulates that the President of the European Central Bank shall be appointed from among nationals of Member States, who are persons of recognized standing and professional experience in monetary or banking matters, by common accord of the governments of the Member States at the level of the Heads of State or Government, on a recommendation from the European Council after it has consulted the European Parliament and the Governing Council. The term of the President's office shall be eight years and shall not be renewable.

13. The President, as a member of the Executive Board, can be removed from office by the European Court of Justice, on application by the Governing Council or the Executive Board, in the event of incapacity or serious misconduct.

The Reserve Bank of Australia

14. The appointment arrangement for the Governor of the Reserve Bank of Australia is set out in the Reserve Bank Act 1959.

15. Sections 24 and 24A of the Act provide that the Governor of the Reserve Bank of Australia shall be appointed by the Treasurer on the terms and conditions as determined by the Reserve Bank Board. A person who is a director, officer or employee of an authorized deposit-taking institution is not capable of such appointment. The term of appointment for the Governor shall not exceed seven years, with no restriction on renewal. The Treasurer shall terminate the appointment of the Governor if the latter becomes permanently incapable of performing his or her duties, engages in any paid employment outside the duties of his or her office, or becomes bankrupt.

The Bank of Japan

16. The appointment arrangement for the Governor of the Bank of Japan is prescribed in the Bank of Japan Law.

17. Article 23 of the Bank of Japan Law provides that the Governor of the Bank of Japan shall be appointed by the Cabinet, subject to the consent of the House of Representatives and the House of Councillors². The term of appointment for the Governor shall be five years. The Governor may be reappointed.

² According to article 23(5), if the term of office of a Governor expires or if the position becomes vacant, and if the Diet is out of session or the House of Representatives is dissolved so that it is impossible to obtain the consent of both Houses, the Cabinet may appoint a Governor irrespective of articles 23(1) and (2).

18. The Governor shall be dismissed from office by the Cabinet or the Minister of Finance if he receives a ruling of commencement of bankruptcy proceedings or penalties under the Law, or is deemed incapable of carrying out his or her duties by the Policy Board of the Bank of Japan because of physical or mental disorders.

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