

立法會
Legislative Council

LC Paper No. CB(1)1922/08-09

Ref: CB1/PL/FA

Panel on Financial Affairs
Special meeting on 18 June 2009

Background Brief
on arrangement for the appointment of the Monetary Authority

Purpose

This paper sets out the background on the arrangement for the appointment of the Monetary Authority (MA). It also summarizes the major views and concerns expressed by Members on the subject at meetings of the Legislative Council (LegCo) and its committees.

Background

Legal mandate of the Hong Kong Monetary Authority

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

3. The powers, functions and responsibilities of MA are set out in 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. HKMA, being an integral part of the Hong Kong Special Administrative Region Government, operates with a high degree of autonomy within the relevant statutory powers conferred upon MA in its day-to-day work.

Mechanism for the appointment of MA

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

5. 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. FS, in considering MA's appoint, 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 (GSC) of the Exchange Fund Advisory Committee as appropriate.

Members' major views

6. The appointment and tenure of office of MA, as well as the remuneration packages of the post, have been issues of concern to the public and LegCo Members. The appointment and tenure of office of MA was discussed at the meeting of the Panel on Financial Affairs (FA Panel) held on 28 April 2008. Members expressed concern about the absence of a specified tenure of office of MA and the transparency of the terms and conditions of appointment. There were also concerns about the accountability of, and the high remuneration for the incumbent MA. Panel members urged the Administration to put in place, in line with the best international practice, an appointment mechanism for MA.

7. At the Council meeting on 11 March 2009, Hon CHEUNG Man-kwong raised a question on "Legislation on HKMA", expressing his view that the selection process, tenure of office, removal procedure and remuneration arrangement of MA should be governed by a new piece of legislation.

8. At the Council meeting on 6 May 2009, Hon Albert CHAN moved a motion on "Demanding a comprehensive reform of HKMA", requesting reforms in various areas of HKKMA including its organization, responsibility and mechanism for appointment of senior staff. The motion and the amendments proposed by Hon James TO, Hon WONG Yuk-man and Hon Ronny TONG were all negatived.

Recent developments

9. On 19 May 2009, the Government announced that the incumbent Chief Executive of HKMA, Mr Joseph YAM, would step down from the post on 1 October 2009. FS also advised the public during the announcement that the Government was in the final stages of identifying Mr YAM's replacement, and that an announcement would be made after a final decision on Mr YAM's successor was taken.

10. Noting the Government announcement on the move of the incumbent MA, members sought from FS information on the selection process of the replacement at the special meeting of FA Panel held on 21 May 2009. Responding to members enquires, FS advised that he had earlier invited Mr Victor FUNG, Mr Marvin CHEUNG and Mr John BOND to recommend suitable candidates to him. Panel members queried the rationale for FS to appoint a selection team to recommend suitable candidates for

replacement of the incumbent MA. They sought further information on the considerations for appointing the selection committee to give advice on suitable candidates, and the possible conflict of interest which might arise if advice was sought from GSC instead. They were also concerned about the selection criteria for the replacement and reasons for not conducting an open recruitment for the post.

11. At the Council meeting on 3 June 2009, Hon Fred LI raised a question on "Appointment of the successor of the Chief Executive of HKMA", seeking further information on the selection exercise for the successor of Mr YAM. The question and the Administration's reply is at **Appendix II**.

12. At the Council meeting on 3 June 2009, Hon Ronny TONG moved a motion for the adjournment of the Council for the purpose of debating the selection of candidates for the post of the Chief Executive of HKMA.

13. FS has been invited to the special meeting of the FA Panel scheduled for 18 June 2009 for follow-up discussion on the arrangement for appointment of MA.

Relevant papers

14. The relevant papers are available at the following links:

Administration's paper for FA Panel meeting on 28 April 2008

<http://www.legco.gov.hk/yr07-08/english/panels/fa/papers/fa0428cb1-1332-2-e.pdf>

Minutes of FA Panel meeting on 28 April 2008 (paragraphs 35 to 41)

<http://www.legco.gov.hk/yr07-08/english/panels/fa/minutes/fa080428.pdf>

Council Business Division 1
Legislative Council Secretariat
15 June 2009

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Chapter:	66	Title:	EXCHANGE FUND ORDINANCE	Gazette Number:	
Section:	5A	Heading:	Appointment of Monetary Authority	Version Date:	30/06/1997

(1) The Financial Secretary shall appoint a person to be the Monetary Authority on such terms and conditions as he thinks fit.

(2) The Monetary Authority shall-

- (a) assist the Financial Secretary in the performance of his functions under this Ordinance;
- (b) perform such functions as the Financial Secretary may direct; and
- (c) perform functions imposed on or assigned to the Monetary Authority by any other Ordinance.

(3) The Financial Secretary may appoint, on such terms and conditions as he thinks fit, persons to assist the Monetary Authority in the performance of the functions of the Monetary Authority specified in subsection (2).

(4) Notwithstanding subsection (2)(b) and (c), the Monetary Authority and persons appointed to assist him under subsection (3) shall be regarded, for all purposes, as employed in connection with the purposes of the Fund.

(5) In this section "functions" (職能) includes powers and duties.

(Added 82 of 1992 s. 4)

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Press Releases

LCQ2: Appointment of the successor of the Chief Executive of the Hong Kong Monetary Authority

Following is a question by the Hon Fred Li and a reply by the Acting Financial Secretary, Professor K C Chan, in the Legislative Council today (June 3):

Question:

At the special meeting of the Panel on Financial Affairs held on May 21, the Financial Secretary (FS) revealed that he had appointed a three-member selection team to make recommendations to him on the candidates for the successor of the Chief Executive (CE) of the Hong Kong Monetary Authority (HKMA), and a retired personnel consultant had been appointed to assist the team, and that the selection exercise concerned had already reached the final stage. In this connection, will the Government inform this Council:

(a) as it has been reported that the selection team had already commenced work at the end of last year, of the reasons for FS not making immediate announcement; and of the relationship between the selection team and the Governance Sub-Committee of the Exchange Fund Advisory Committee;

(b) of the work procedures of the selection team and its criteria for selecting candidates, as well as the reasons for the selection team not reporting its work to the public; whether any head-hunting agency has been engaged to assist the selection team and whether the aforesaid personnel consultant was providing assistance free of charge; and

(c) of the reasons for not conducting an open recruitment for the post of the CE of HKMA?

Reply:

President,

As the Financial Secretary (FS) is now on overseas duty visit, I am speaking on his behalf.

Section 5A(1) of the Exchange Fund Ordinance provides the FS with clear powers and responsibilities to appoint the Monetary Authority and draw up the terms of appointment. The FS considers the present arrangement appropriate. The FS will act in a fair and impartial manner according to law to ensure that the appointee is fit and proper and that the appointment is in the best interests of Hong Kong. To my knowledge, open recruitment of governors of central banks is currently not a common international practice.

The Governance Sub-Committee is set up under the Exchange Fund Advisory Committee within the Hong Kong Monetary Authority (HKMA). Its main function is to make recommendations to the FS on the remuneration and human resources policies of the HKMA and related matters. To avoid any unnecessary misunderstanding on the part of the public, the FS has earlier decided to invite Mr Victor Fung, Mr Marvin Cheung and Mr John Bond to recommend suitable candidates to him. He has also invited Mr Martin Tang, a retired personnel consultant, to assist in the recruitment work. All of them are providing assistance free of charge.

As explained by the FS, the selection exercise has already reached the final stage. Upon completion of the exercise, he

will announce the name of the successor of the Chief Executive of the HKMA and provide the relevant details.

I will listen carefully to the views of Members and report them to the FS in due course.

Ends/Wednesday, June 3, 2009
Issued at HKT 12:25

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