BANKING SUPERVISION IN HONG KONG

Hong Kong Monetary Authority
香港金融管理局
Hong Kong’s vibrant economy owes much to the safety and soundness of its banking system, which in turn is founded upon an effective supervisory regime. Banking supervision in Hong Kong is performed by the Hong Kong Monetary Authority (HKMA), whose functions are to help safeguard the interests of depositors and promote the general stability and effective working of the banking system. A wide variety of supervisory techniques, such as on-site examination and off-site review, are employed by the HKMA in the course of its on-going supervision of banks to ensure that various risks they face are adequately managed. In addition, the HKMA is the licensing authority for institutions seeking to operate banking business or the business of taking deposits in Hong Kong. An institution has to satisfy the HKMA, among other things, about the fitness and propriety of its owners and management, financial soundness, adequacy of internal control systems before approval is granted.

Effective banking supervision is of growing importance, particularly in the light of the rapidly changing risk profile of banks resulting from globalisation, technological advance, financial innovation, mergers and acquisitions. This also calls for high standards of corporate governance within banks to ensure that necessary systems are in place to identify, measure, monitor and control risks inherent in their business operations. It was with these issues in mind that the HKMA introduced a risk-based supervisory approach in 1999. The approach puts strong emphasis on the quality of risk management within banks so that banking problems can be identified and tackled at an early stage, thereby reducing the risk of bank failure.
Ever-changing operating conditions and customer needs have resulted in new banking products and services as well as new ways of conducting banking business. For instance, the rapid application of information technology in the financial services industry has given rise to a growing interest among banks and their customers in carrying out transactions through electronic means, such as the Internet and mobile telephones. Aware of the challenges involved, the HKMA is constantly reviewing and enhancing its supervisory framework to ensure that the banking industry remains adequately supervised.

The aim of this booklet is to provide some general knowledge about how banks in Hong Kong are supervised by describing some key aspects of the banking system and supervisory approach of the HKMA. Banking Supervision in Hong Kong is the second in a series of “background briefs” produced by the HKMA on its key areas of responsibility. Comments on this work – and suggestions for future topics – are most welcome. Readers with access to the Internet may also wish to take a look at the interactive version of this publication at www.hkma.gov.hk.

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Chief Executive
Hong Kong Monetary Authority
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Introduction

The stability of a banking system depends on sound management. It also depends to a great extent on public confidence. Sound management and public confidence can only be safeguarded when there exists a well-established and effective supervisory regime under which the safety and soundness of the institutions that make up the system are maintained. The HKMA is the supervisor of the banking industry in Hong Kong. The supervisory function of the HKMA is to try to ensure that banks in Hong Kong operate in an effective, responsible, honest and business-like manner and that the interests of depositors are adequately protected.

This background brief explains how the HKMA helps to ensure that the safety and soundness of Hong Kong’s banking system is maintained.
STRUCTURE OF THE BANKING SYSTEM

For the purposes of supervision, Hong Kong’s banking sector is divided into three tiers of authorized institutions (AIs): licensed banks, restricted licence banks (RLBs) and deposit-taking companies (DTCs). The main distinction between these three types of AIs lies in the activities they are allowed to conduct under the Banking Ordinance:

- **Only licensed banks** may operate current and savings accounts, accept deposits of any size and maturity from the public and pay or collect cheques drawn by or paid in by customers.

- **Restricted licence banks**, many of which are engaged in wholesale and capital market activities, may only take deposits from the public in amounts of HK$500,000 or above without restriction on maturity.

- **Deposit-taking companies** are restricted to taking deposits of HK$100,000 or above with an original term to maturity of at least three months. These companies are mostly owned by or otherwise associated with banks and engage in a range of specialised activities, including consumer and trade finance and securities business.
There are 133 licensed banks, 46 restricted licence banks and 45 deposit-taking companies in Hong Kong¹. Together they operate a network of 1,409 local branches. Ninety-nine authorized institutions (26 of which are licensed banks) are locally incorporated. The rest are branches of foreign banks. In addition, 94 overseas banks have representative offices in Hong Kong. The total deposits and assets held by the three categories of authorized institutions at December 2002 are as follows:

<table>
<thead>
<tr>
<th>Total Deposits (HK$ million)</th>
<th>Total Assets (HK$ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Licensed banks</td>
<td>3,276,014</td>
</tr>
<tr>
<td>RLBs</td>
<td>35,892</td>
</tr>
<tr>
<td>DTCs</td>
<td>5,895</td>
</tr>
<tr>
<td>Total</td>
<td>3,317,801</td>
</tr>
</tbody>
</table>

¹ December 2002 figures. The latest banking statistics can be found in the *Monthly Statistical Bulletin*, published on the HKMA website.
Why Banking Stability is Important

Banks are closely linked with the everyday life and activities of people. Drawing salaries, paying bills, buying homes, building up savings and taking out loans all involve transactions with banks. Businesses also rely on the banking system for settlement of their daily business transactions and for other financial needs. Any large disruption of banking operations affects society as a whole. The links between banks and the fact that banking stability is essentially founded on public confidence mean that problems with one bank can easily spread to other banks and financial institutions. To prevent the extensive economic and social implications that may arise from banking problems, it is crucial that the stability of the banking system is maintained.

As the banking supervisor in Hong Kong, the principal function of the HKMA is to try to ensure the general stability and effective working of the banking system through the regulation of banking and deposit-taking business and the supervision of authorized institutions. To this end, the HKMA has the responsibility to promote and encourage proper standards of conduct and sound and prudent business practices, as well as to suppress illegal, dishonourable or improper practices within the banking sector. The HKMA derives its power to perform these functions from the Banking Ordinance. From time to time, the HKMA considers and proposes reforms to the Ordinance to ensure that it remains up to date and relevant.
Licensing Requirements for Banks

The HKMA has the authority under the Banking Ordinance to grant or refuse permission to an institution seeking to operate banking business or the business of taking deposits in Hong Kong. The HKMA has the legal obligation 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 not only at the time of authorization but also thereafter. The HKMA assesses whether these criteria are being complied with on a continuing basis. Failure to meet the criteria by existing authorized institutions would be a ground for revocation of authorization under the Eighth Schedule of the Ordinance.

All three types of authorized institutions 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 is higher than for restricted licence banks and deposit-taking companies (HK$300 million against HK$100 million and HK$25 million respectively);
- the minimum size criterion (HK$3 billion for customer deposits and HK$4 billion for total assets) which licensed banks are required to meet does not apply to restricted licence banks and deposit-taking companies.
The other criteria specified in the Seventh Schedule cover the internationally accepted principles of a prudent licensing system, including:

- whether (in case of an applicant incorporated outside Hong Kong), the applicant is a bank adequately supervised in its home country;
- whether the chief executive, directors and controllers of the applicant are “fit and proper”;
- the financial soundness of the applicant, in respect of capital, liquidity and asset quality;
- the adequacy of internal controls and accounting systems; and
- whether the business of the applicant is, and will continue to be, carried out with integrity, prudence and competence.

Applicants which are 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 will generally require any foreign bank that wishes to establish a branch in Hong Kong to have a capital adequacy ratio of at least 8%.

Detailed guidelines on the interpretation and application of the above authorization criteria are included in Chapter 4 of the *Guide to Authorization* published on the HKMA website.
HOW THE HKMA SUPERVISES BANKS

The HKMA’s supervisory approach is based on a policy of “continuous supervision”. This involves on-going monitoring of authorized institutions through the use of a variety of techniques, including

• on-site examinations
• off-site reviews
• prudential meetings
• meetings with the board of directors
• co-operation with external auditors
• sharing of information with other supervisors.

The aim is to try to ensure that any problems affecting authorized institutions are detected and addressed at an early stage.

Focusing on the management of risks

Every business carries inherent risks. Banking business is no exception. Sound risk management is therefore essential to promote stability in both individual institutions and in the banking system as a whole. In 1999 the HKMA introduced a risk-based supervisory approach to Hong Kong. The objective of this approach is to ensure that authorized institutions have the necessary risk management systems in place to identify, measure, monitor and control risks inherent in their business operations. The approach enables potential problems to be detected and tackled at an early stage, thereby reducing the risk of bank failure. The eight major types of inherent risks identified by the HKMA are:
The risk profile of an authorized institution is determined by balancing the level of inherent risks with the quality of its risk management systems. A risk management rating is then assigned and factored into the CAMEL rating of the institution. CAMEL is an internationally recognised framework for assessing Capital adequacy, Asset quality, Management, Earnings and Liquidity. The overall rating is expressed through the use of a numerical scale of 1 through 5 in ascending order of supervisory concern. The risk-based supervisory approach was first applied in 2000 to small and medium sized local banks and was introduced to large local banks and branches of foreign banks in 2001.

The impact of the Asian financial crisis in the late 1990s served to highlight the importance of a sound credit risk management system within authorized institutions. Asset quality has always been a major focus of the HKMA in its regular on-site examinations and off-site reviews of AIs. General guidance on how AIs should manage credit risk is laid down in a number of guidelines.
in the HKMA’s *Supervisory Policy Manual*\(^2\), including that entitled *General Principles of Credit Risk Management* issued in January 2001. The HKMA has also issued guidance on the management systems for other major types of risk, such as market and liquidity risks.

The increasing risks in a rapidly changing operating environment also call for high standards of corporate governance within AIs to ensure that there is adequate board oversight of the risk management and control systems. Under a guideline on *Corporate Governance of Locally Incorporated Authorized Institutions* issued in 2001, AIs are required to review their current practices and to make every effort to adopt the minimum standards included in the guideline.

**On-site examinations — taking a close look**

A key supervisory tool for effective supervision of authorized institutions is on-site examination. On-site examinations are conducted by the HKMA’s own examination teams on all AIs irrespective of their place of incorporation. For locally incorporated AIs, on-site examinations may cover their overseas branches and subsidiaries. The examinations enable the HKMA to obtain a first-hand knowledge of how an institution is managed and controlled, which is particularly useful for assessing asset quality and the adequacy of risk management systems and internal controls of AIs. At present, the frequency of on-site examinations ranges from one to three years. The actual examination frequency normally depends on an AI’s overall CAMEL rating. An examination may take the form of either a comprehensive examination or a targeted examination. A comprehensive examination covers the full range of an AI’s operations. This includes adequacy of
capital and liquidity, quality of assets, treasury operations, high-level controls, compliance with the Banking Ordinance and internal controls, such as controls for prevention of money laundering. A targeted examination focuses on specific areas of concern that the HKMA has identified during the course of its off-site supervision. For AIs engaging in derivatives, securities or Mandatory Provident Fund-related business, specialised examinations of these activities are conducted to ensure that they are adequately managed and comply with the relevant laws, regulations and codes of conduct.

In an on-site examination, the examination team normally reviews an AI’s policies and procedures and how they are being applied. The team interviews staff at various levels and conducts tests on transactions. At the end of the examination, the team discusses the main findings and conclusions with the senior management of the AI. A formal report is then issued to the AI, after which its corrective actions to implement the HKMA’s recommendations is closely monitored.

**Off-site reviews – enabling continuous supervision**

To ensure continuous supervision, the on-site examination is supplemented by on-going off-site surveillance of the financial conditions of individual authorized institutions and the quality of their management and systems for controlling exposures and limiting risks. Off-site surveillance includes regular analysis of statistical returns and an annual comprehensive review of the performance and financial position of AIs.
Prudential meetings – regular management contacts

The annual off-site review of an authorized institution is usually followed by a prudential meeting with its senior management. This regular management dialogue enables the HKMA to understand how an AI’s management controls its operations and views its business situation and prospects. The HKMA can also make use of such opportunity to clarify specific issues and discuss prudential concerns with the AI’s management. For AIs belonging to a banking group, prudential meetings may be held both at group level and with individual subsidiaries of the group. The HKMA may also hold discussions with an AI’s overseas head office.

To promote a high standard of corporate governance in the banking sector in Hong Kong, the representatives of the HKMA also meet the board of directors of each local bank every year. During these meetings, an assessment is given to the board about the bank’s performance, the quality of its risk management and internal controls and issues requiring attention.

External audit

External auditors play an important role in the supervisory process. The HKMA’s relationship with an AI’s external auditors takes a number of forms:

- auditors are required under the Banking Ordinance to certify, usually once a year, whether an AI’s banking returns have been compiled correctly. This provides the HKMA with an independent opinion on the reliability of the prudential statistics submitted;
- auditors are also required, usually once a year, to report on the following areas:
controls relating to the compilation of prudential returns;
- controls to ensure compliance with various provisions in the
Ordinance; and
- for AIs incorporated in Hong Kong, controls to ensure the
maintenance of adequate provisions;
• auditors may be commissioned to review certain internal control
systems of an AI on an ad hoc basis;
• annual tripartite discussions are held with AIs and their auditors in
respect of matters of concern identified during the annual audit; and
• the HKMA should receive a copy of the auditors’ management letter
to an AI. Any cause for prudential concern would be discussed with
the AI and, if necessary, its auditors.

Information exchange with other supervisors
The HKMA maintains regular contacts with other local and overseas supervisors
to exchange views on matters relating to AIs. In this regard, the HKMA has the
legal authority under the Banking Ordinance to disclose information to supervisors
outside Hong Kong to assist them to exercise their functions. This is however
subject to the condition that the relevant supervisors have adequate secrecy
provisions to safeguard the confidentiality of the information disclosed. Locally,
the HKMA may also disclose information to other supervisors such as the
Securities and Futures Commission, Office of the Commissioner of Insurance,
or Mandatory Provident Fund Authority under similar circumstances. Sharing of
information with other supervisors is important particularly given the emergence
of financial conglomerates with cross-sector business and international operations,
and the growing linkages among different types of financial institutions.
**Power to collect information**

The HKMA has the authority to collect prudential data from authorized institutions both routinely and on an ad hoc basis. This power extends to any holding company, subsidiary or sister company of an AI if the HKMA considers it necessary for its supervision. Regular statutory returns cover information about assets and liabilities, profit and loss, capital adequacy, liquidity, large exposures, loan classification, foreign exchange position, interest rate risk, market risk as well as securities and Mandatory Provident Fund-related activities. Internal management information, such as financial budgets and forecasts as well as bad and doubtful debt reports, may also be required by the HKMA for review, together with such other information as the AI’s internal policy statements on particular areas of operations, including money laundering prevention, and information on subsidiaries.

**Consolidated supervision**

The HKMA has various powers to prevent undesirable affiliations or structures. Locally incorporated authorized institutions planning to establish overseas branches, subsidiaries and representative offices have to seek the prior approval of the HKMA. In determining whether to grant an approval, the HKMA takes into account the institution’s business plan for the proposed operation, the financial implications involved and the institution’s ability to manage and exercise adequate controls over the operation. The economic and political situation of the country in which the AI proposes to set up its overseas operation is also considered, as is
the country’s secrecy rules and its methods of supervising financial institutions. This is particular important from the supervisory angle because the HKMA needs to ensure that sufficient information can be obtained about the overseas operation, either through on-site examinations or by other means.

Als incorporated in Hong Kong are supervised on a consolidated basis in respect of their capital adequacy, concentration of exposures and liquidity. The main objective of this is to enable the HKMA to assess any weaknesses within a banking or financial group that may have an impact on the Al itself, and to take defensive or remedial action when necessary.

When supervising banking groups, the HKMA takes a flexible approach in the scope of consolidated supervision in order to accommodate different types of structures. As a general rule, however, the group’s local and overseas offices and financial subsidiaries would be included. Non-bank companies are included in the consolidation if they undertake “financial” business, such as hire purchase, credit cards, or leasing. Where non-bank subsidiaries (for example, securities firms or insurance companies) are themselves adequately supervised by other supervisors, the HKMA will also rely heavily on their co-operation to ensure effective overall supervision of the banking group.

**Supervision of electronic banking**

There has been a growing interest among banks in using electronic means to deliver services to customers. This brings with it the need for new forms of risk management.
In May 2000, the HKMA issued a guideline on *Authorization of Virtual Banks*. This guideline is aimed at institutions that deliver banking services primarily through the Internet or other electronic channels. The HKMA does not object to the establishment of virtual or Internet-based banks in Hong Kong provided that they can satisfy the same criteria that apply to conventional banks.

To strengthen the supervisory framework for electronic banking, the HKMA issued two further guidance notes entitled *Management of Security Risks in Electronic Banking Services* and *Independent Assessment of Security Aspects of Transactional E-banking Services* in July and September 2000 respectively. The second of these guidance notes stresses the need for banks to commission regular independent assessments of the security of their e-banking services. In addition, to better monitor the development of e-banking, the HKMA has established a specialist team and has arranged technical briefings for supervisory staff. An external consultant has also been appointed to assist the specialist team in developing an on-site examination programme focusing on e-banking activities and general information on technology controls.

The HKMA will continue to develop its supervisory framework in line with international practices, including those being developed by the Basel Committee on Banking Supervision. The role of the HKMA is to help AIs to control the risks of electronic banking while not standing in the way of its continuing development.
Banks operate in a constantly changing environment. Advances in technology, the globalisation of financial market, and new demands placed on them by consumers mean that the ways in which they carry out their operations must also change. As banking supervisor, the HKMA continues to develop Hong Kong’s supervisory system with the aim of fulfilling its mandate: to help to safeguard the interests of depositors and promote the general stability and effective working of the banking system.
1. How safe are Hong Kong’s banks?

All banks in Hong Kong are subject to the supervision of the HKMA. They are required to meet various prudential requirements set out in the Banking Ordinance and guidelines issued by the HKMA. These are designed to ensure that banks operate in a safe and sound manner, and that the interests of depositors are safeguarded. Through its supervisory work the HKMA seeks to ensure that this is the case. There are however factors that may affect the safety and soundness of banks that are beyond the control of the HKMA. These may, for example, include severe external shocks or a financial crisis in the home country of a foreign bank. In such circumstances, it would be the job of the HKMA to undertake appropriate supervisory measures to ensure that problems are tackled and resolved in the best interests of depositors.

2. How does the HKMA ensure that a bank is owned and operated by suitable persons?

As part of the authorization criteria under the Banking Ordinance, the controllers, chief executive and directors of an AI must satisfy the HKMA that they are fit and proper to occupy their positions. In assessing whether a person can meet the “fit and proper” test, the HKMA will have regard to:
• whether the person has sufficient skills, knowledge, experience and soundness of judgement to properly undertake and fulfil his particular duties and responsibilities;
• whether the person is diligent in fulfilling those duties;
• the integrity, reputation and character of the person;
• whether the person has a record of non-compliance with various non-statutory codes, or has ever been reprimanded or disqualified by any professional or supervisory body;
• whether the person has ever been a director of a company that has been closed down by the court following legal action by creditors; and
• the person’s business record and other business interests, as well as his financial soundness and strength. This is to ensure that business decisions will be made on an arm’s-length basis and that there are no potential concerns over his personal dealings or financial situation that would undermine the confidence of depositors through “contagion”.

The HKMA tries to ensure that the controllers and management of AIs continue to meet the fit and proper criterion through its on-going supervisory contacts with the AIs. To further enhance the safety and soundness of AIs, a new authorization criterion has recently been added in the Banking Ordinance requiring AIs to maintain adequate systems of control to ensure that persons appointed to hold senior managerial positions are “fit and proper”.
3. *What can the HKMA do if a bank is in difficulties?*

As soon as there are signs that a bank is facing severe financial problems, the HKMA will first and foremost try to establish the cause, nature and scale of the problem through urgent meetings with the management and auditors of the bank involved and a quick on-site examination. Depending on the severity of the situation, the HKMA might require the bank to stop taking new deposits or making new loans in order to preserve liquidity. In an extreme case, the bank could be instructed to close its doors for normal business in order to protect its remaining assets.

If the bank is facing only a temporary liquidity problem but is still solvent, the HKMA would normally be prepared to act as the lender of last resort in the interest of the overall stability of the banking system. Such liquidity assistance would be provided on a fully secured basis and on normal commercial terms. The HKMA would also expect significant shareholders of the bank to inject liquidity and/or capital as a demonstration of their own commitment.

If the problem bank is insolvent, or is likely to become so, the HKMA would normally appoint a manager to assume control of the bank and require it to close for normal business. In this case, the available options would include:

- helping to find a suitable buyer to acquire the problem bank;
- seeking to put the problem bank into liquidation; and
- taking over the problem bank using public funds.
Although these various options have been used in Hong Kong in the past, there is no undertaking by the Government that problem banks will automatically be rescued using public funds: each case would be dealt with according to its merits.

4. How does the HKMA supervise securities and insurance business conducted by banks?

The responsibilities of supervising the financial services industry in Hong Kong are shared among the HKMA, the Securities and Futures Commission (SFC) and the Office of the Commissioner of Insurance (OCI). Essentially, the HKMA is the front-line supervisor of banks’ securities and insurance business, but it does so in accordance with the standards set by the SFC and the OCI. In particular, in relation to their securities business, banks are subject directly to most of the provisions in the new Securities and Futures Ordinance, and the HKMA is responsible for monitoring their compliance with these provisions. To assist in the process, the HKMA and the SFC have entered into a Memorandum of Understanding which sets out the details of how their supervisory cooperation will operate.

5. What should I do if I want to complain about banking services?

You should normally first try to sort out the complaint with the bank. Complaining first to the bank gives it the chance to put things right at an early stage. If you are not happy with the way in which the bank has dealt with your complaint, then you may file a written complaint to the HKMA. We will do what we can to help, though our role is limited.
Detailed procedures for lodging a complaint are set out in a leaflet *What to do if you have a complaint about banking services*, published in July 2002.

6. **What is the role of the HKMA in resolving complaints about banking products and services?**

The HKMA does not have an explicit statutory responsibility for consumer protection under the Banking Ordinance. We do, however, expect banks to deal with customer complaints in a thorough and prompt manner. To this end, the HKMA has issued in February 2002 a guideline that requires banks to have effective procedures in place for the proper handling of customer complaints. But the HKMA does not have the power to decide whether the complaint is justified and to order the bank to pay compensation. For more details, please see the leaflet *What to do if you have a complaint about banking services*, published in July 2002.
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– describes the latest progress in various banking supervisory and policy issues.

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– gives a more detailed and technical description of the supervisory framework and practices adopted by the HKMA.

Hong Kong Monetary Authority, *Supervisory Policy Manual*, available on the HKMA website
– sets out the HKMA’s latest supervisory policies and practices and the minimum standards expected of authorized institutions operating in Hong Kong.

Hong Kong Monetary Authority Website: [www.hkma.gov.hk](http://www.hkma.gov.hk)
《香港銀行業監理》
香港經濟能夠蓬勃發展，實有賴健全的銀行體系，而有效的監管制度則是確保銀行體系健全的基石。這份資料簡介闡述香港銀行體系的架構及金管局監管銀行的制度及方法。

Banking Supervision
in Hong Kong
The soundness of the banking system is vital to the success of Hong Kong's economy and is founded upon an effective supervisory regime. This booklet describes the main features of Hong Kong's banking system and explains the supervisory approach of the Hong Kong Monetary Authority.

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