

CHAPTER 1

INTRODUCTION

- 1.1 The Hong Kong Monetary Authority (HKMA) was established on 1 April 1993 by merging the Office of the Exchange Fund with the Office of the Commissioner of Banking. The policy objectives of the HKMA are-
- to maintain currency stability, within the framework of the Linked Exchange Rate system, through sound management of the Exchange Fund, monetary policy operations and other means deemed necessary;
 - to promote the safety and stability of the banking system through the regulation of banking business and the business of taking deposits, and the supervision of authorized institutions; and
 - to enhance the efficiency, integrity and development of the financial system, particularly payment and settlement arrangements.
- 1.2 The legal basis for the powers of the Monetary Authority (MA)¹ in relation to the regulation and supervision of banking business and the business of taking deposits is the Banking Ordinance (“the Ordinance”). Under the Ordinance, the MA is the authority responsible for all authorization matters. These include, among others, the authorization, suspension and revocation of all three types of authorized institution (see Chapter 2). The Banking (Amendment) Ordinance 1997 also provides the necessary powers to the MA for the regulation of the issue of multi-purpose stored value cards (“MPCs”) (see Chapter 10) and the approval and supervision of money brokers (see Chapter 11).
- 1.3 The Guide to Authorization under the Banking Ordinance (“the Guide”) is, as the name suggests, intended to provide guidance about the scheme of supervision contained in the Ordinance and the policies and approach of the MA in implementing it. While the Guide summarizes a number of the principal statutory provisions it does not set out to analyze them all. Nor is it a comprehensive guide to the wide variety of issues that may confront the supervisors and authorized institutions. It is therefore not a substitute for appropriate legal and other professional advice in a given case. Parties seeking authorization are therefore advised to familiarize themselves not only with the Guide but also with the Ordinance.
- 1.4 The Guide is relevant both to institutions intending to seek approval to become authorized institutions or money brokers under the Ordinance and to existing authorized institutions and approved money brokers, as the authorization criteria are of a continuing nature. Failure to meet them by an existing authorized institution or

¹ Legally, the MA is an individual appointed by the Financial Secretary under section 5A of the Exchange Fund Ordinance. The powers under the Banking Ordinance are personally vested in the MA. In practice, the MA heads an Office known as the “Hong Kong Monetary Authority” of which he is the Chief Executive.

an approved money broker would mean that the MA's powers of revocation would become exercisable in respect of that institution (although there is discretion on their use). It is therefore advisable that all authorized institutions and approved money brokers should familiarize themselves with the contents of this Guide.

- 1.5 Chapters 2 to 10 of this Guide address issues relating to authorized institutions. These chapters set out in detail the authorization regime in Hong Kong as well as the way in which institutions are authorized and supervised. Chapter 11 describes the legal framework for the supervision of money brokers and discusses the approval criteria and the grounds for revocation of approval of money brokers. The following is a brief summary of the contents of each chapter:
- (a) Chapter 2 describes the authorization regime under the Ordinance;
 - (b) Chapter 3 describes the legal and supervisory framework to which institutions authorized under the Ordinance are subject;
 - (c) Chapter 4 sets out the MA's interpretation of each of the minimum authorization criteria set out in the Seventh Schedule of the Ordinance;
 - (d) Chapter 5 sets out the MA's interpretation of each of the grounds for revocation and suspension of authorization as set out in the Eighth Schedule of the Ordinance;
 - (e) Chapter 6 describes the MA's powers under section 52 of the Ordinance for dealing with a problem authorized institution, including the power to appoint a Manager to take control of such an institution;
 - (f) Chapter 7 describes the restrictions on the use of the word "bank" in business names or descriptions;
 - (g) Chapter 8 describes the procedures for applying for authorization and how such applications are processed by the MA;
 - (h) Chapter 9 sets out the principles which the MA will take into account in deciding whether to authorize "virtual banks", i.e. banks that deliver services primarily through the internet or other electronic delivery channels;
 - (i) Chapter 10 describes the legal framework and the principles and criteria which the MA will adopt in authorizing or exempting the issue of or facilitating of the issue of MPCs; and
 - (j) Chapter 11 describes the legal framework and sets out the MA's interpretation of the minimum approval criteria for money brokers set out in the Eleventh Schedule of the Ordinance, as well as MA's interpretation of the grounds for revocation of approval of money brokers set out in the Twelfth Schedule of the Ordinance.