Financial Regulatory Structure in Hong Kong: Looking Forward

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Financial Development

• 1840s-1865: StanChart (1859, 1862)
• 1865-1948: HSBC (1865), HKSE (1891)
Themes: British Period

- Banking and securities law developed largely in response to (1) crisis experiences and (2) British developments, with a more limited impact from (3) international standards.
- Crisis experiences: especially 1987 and 1991
  - HKMA (1993)
- British developments: less influence following Single European Act (1986)
- International: Basel Committee on Banking Supervision, International Organisation of Securities Commissions
- Overall: frequent reforms
Themes: Post-1997

• Basic Law
• Regulatory independence: HKMA, SFC
• Regulation v. legislation: Banking Ordinance, Securities and Futures Ordinance
Post-1997 Experience

• Crisis response: 1997, 2008 (SFC and HKMA Lehman reports)
• International Monetary Fund review (2003)
• Independent reports (Carse, penny stocks)
Hong Kong Financial Law

• Financial Regulatory System
• Key Financial Laws
• Banking
• Securities Regulation
• Insurance
Basic Structure and Principles

• Basic Law: One Country, Two Systems
• Ordinances / Sub-legislation: Statutes / Regulations
• Common Law (plus regulatory guidance)
• Principles
  – Permissive: Permitted unless prohibited
  – Flexible: Contract and courts
  – Open to all unless closed
Basic Law Art. 109

- The [HKSAR Government] shall provide an appropriate economic and legal environment for the maintenance of Hong Kong as an international financial centre.
Financial Regulatory Structure

• Regulatory structure in Hong Kong
  – Sectoral: securities / futures, insurance, pensions
  – Institutional: banking

• Regulatory structure: Options
  – Sectoral (Mainland China, US)
  – Institutional
  – Functional (Australia)
  – Consolidated (UK, Japan, Singapore)
  – Twin Peaks (Netherlands, France)
Regulatory Structure (2)

• Three tier structure
  – Government: Financial Services and the Treasury Bureau (Chief Executive, Financial Secretary, Financial Services Secretary)
  – Regulator
  – Self-regulatory organization (SRO)

• Cooperation / coordination
  – Committees
  – MoUs (Memoranda of Understanding: interagency, agency / SRO, domestic / foreign / Mainland)

• Financial Sector Assessment 2003 (IMF)
Regulatory Structure (3)

• Central Bank: Hong Kong Monetary Authority (HKMA)
• Banking
  – HKMA
  – HK Deposit Protection Board (HKDPB)
  – Hong Kong Association of Banks (HKAB)
• Securities / futures
  – Securities and Futures Commission (SFC)
  – Hong Kong Exchanges and Clearing (HKEx)
• Insurance
  – Office of the Commissioner of Insurance (OCI)
  – Hong Kong Federation of Insurers (HKFI)
• Pensions: Mandatory Provident Fund Schemes Authority (MPFA)
• Others: Financial Reporting Council (FRC), Companies Registry, Independent Commission Against Corruption (ICAC), Consumer Council
Council of Financial Regulators

- FS (chair), FSTB, HKMA, SFC, OCI, MPFA

- Objectives:
  - Contributing to the efficiency and supervision of financial institutions
  - Promotion and development of Hong Kong’s financial markets
  - Maintenance of financial stability
Financial Stability Committee

• FSTB (chair), HKMA, SFC, OCI

• Objectives:
  – Monitoring the functioning of the financial system in Hong Kong
  – Deliberating on issues with possible cross-market and systemic implications and formulating and coordinating responses,
  – Reporting to the Financial Secretary as necessary
Main Financial Laws in Hong Kong

- Basic Law
- Exchange Fund Ordinance
- Banking Ordinance
- Clearing and Settlement Systems Ordinance
- Deposit Protection Schemes Ordinance
- Companies Ordinance
- Securities and Futures Ordinance
- Insurance Companies Ordinance
- Mandatory Provident Funds Schemes Ordinance
- Occupational Retirement Schemes Ordinance
- Plus: FRC Ordinance, Money Lenders Ordinance etc
The Global Financial Crisis: Consequences in Hong Kong

- Bank of East Asia
- AIG
- CITIC Pacific
- Lehman Brothers / Minibonds
Current Issues

• Post-crisis financial regulatory reform
• Competitiveness
• Yuan finance
• Institutional structure
G20/FSB Financial Regulatory Reform Agenda

• Capital, leverage, liquidity and procyclicality
• OTC derivatives
• SIFIs and resolution regimes
• Compensation arrangements
• Expanding the regulatory perimeter: Shadow banking
  – Credit ratings and credit rating agencies
  – Hedge funds
  – Securitisation
• Accounting standards
• Macroprudential frameworks
• Adherence to international standards: FSB, peer review (G20, FSB), IMF Art. IV, IMF/World Bank FSAP
• Plus: international institution reform (esp. IMF)
Regulatory structure: Options

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Useful References
