

## **Chapter III : Financial Services**

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3.1 At the Chairman's invitation, the Secretary for Financial Services, (SFS), Mr Stephen Ip, gave a presentation on the major programmes under his policy areas in 2002-03 (Appendix V-2).

### **Role and functions of the Official Receiver's Office**

3.2 Ms Emily LAU noted that the total number of new insolvency cases had increased from 5 516 in 2000 to 10 217 in 2001 and was estimated to be 10 900 in 2002. However, the Official Receiver's Office (ORO) planned to contract out only 1 100 summary and non-remunerative liquidation cases (with realizable assets below \$200,000) and 60 non-summary liquidation cases to insolvency practitioners in the private sector in 2002-03. In the light of the increasing number of insolvency cases, Ms LAU asked if ORO would consider contracting out more cases to the private sector to enhance efficiency and cost-effectiveness. She also noted that a consultancy study on the role and functions of ORO in handling insolvency cases was being conducted, and enquired whether the contracting out arrangement would also be reviewed in the study.

3.3 The Official Receiver (OR) and the Deputy Secretary for Financial Services (2) (DS(FS)2) advised that with the implementation of the Companies (Amendment) Bill 2000 in July 2000, ORO was entitled to contract out by tender the administration of those corporate liquidation cases with estimated realizable assets of below \$200,000. They confirmed that it was Government's policy to contract out summary corporate liquidation cases to the private sector as far as possible to enhance efficiency and cost-effectiveness of ORO.

3.4 As regards personal bankruptcy cases, OR and DS(FS)2 advised that ORO was required under the existing legislation to administer all bankruptcy cases in Hong Kong and there had been substantial increase in these cases in the past two to three years. The consultancy study on ORO's role and functions would review whether it would be appropriate to contract out personal bankruptcy cases, having regard to relevant practices and experience in other jurisdictions.

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3.5 Ms Emily LAU noted that Arthur Andersen & Company was the consultant engaged for the aforesaid consultancy study and that the company was reported to be arranging a merger with another company. She asked if the merger would affect the progress and outcome of the consultancy study. DS(FS)2 said that as the merger had yet to be finalized, the Administration was unable to provide a definite reply to Ms LAU's question, at this stage. However, she believed that in any business restructuring, the interests of existing clients would be adequately taken care of. The Administration would be monitoring the situation closely.

3.6 Mr NG Leung-sing noted that according to ORO, the estimated cost for contracting out summary and non-remunerative cases was \$13 million for 2001-02 and \$15 million for 2002-03, while the number of such cases to be contracted out would increase substantially from 810 cases in 2001-02 to 1 100 cases in 2002-03. He was concerned whether the provision of \$15 million would be adequate. OR replied that the provision of \$15 million had been worked out based on the tender prices for the cases contracted out in the past and the projected number of contract-out cases.

### **Review of legislation governing company liquidation**

3.7 Mr Albert HO raised concern that the current company liquidation procedures relevant to recovery of shares from insolvent securities companies were very complicated and cumbersome, as had been revealed in some recent cases of securities companies having gone into liquidation. He considered it opportune to review the relevant legislation to ensure equitable compensation for investors having dealings with liquidated securities companies and that the legislation was compatible with the current modes of operations of the financial markets.

3.8 OR agreed that the liquidation procedure in respect of securities companies was complicated in some cases, especially the procedure for realization and recovery of shares held by the companies on behalf of their clients. SFS

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confirmed that Financial Services Bureau (FSB) would take up this issue with the consultant and ORO to see what improvements could be made.

### **Provisions for the Insider Dealing Tribunal, the Market Misconduct Tribunal and the Securities and Futures Appeals Tribunal**

3.9 Mr NG Leung-sing noted that according to the Administration's projection, the Insider Dealing Tribunal (IDT) would be handling ten cases in 2002-03, compared to seven cases processed in 2001-02. Noting that with the implementation of the Securities and Futures Ordinance (SFO), IDT would be replaced by the Market Misconduct Tribunal (MMT) and the Securities and Futures Appeals Tribunal (SFAT), Mr NG enquired how far the implementation of SFO would affect the number of cases referred to the aforesaid tribunals. In reply, the Deputy Secretary for Financial Services (1) (DS(FS)1) confirmed that the Administration expected that the SFO would come into effect in 2002-03, and that the MMT and the SFAT would be established in 2002-03 to replace eventually the IDT and the Securities and Futures Appeals Panel. It was however not expected that there would be many cases referred to the new tribunals during the initial setup period. The projection of ten cases to be handled by IDT in 2002-03 was based on the past number of cases handled by IDT, which was between five to seven. A buffer of a few more cases had been added to take into account the SFO coming into effect within the year.

3.10 Mr Henry WU noted that the average cost of processing a case by IDT in 2002-03 was estimated to be \$1.97 million. As the cost was related to the processing time to a great extent, he enquired about the time required to process the cases referred to IDT in the past. He also noted that of the seven cases handled by IDT in 2001-02, one had been completed. He asked if the cost for processing the case had been recovered.

3.11 DS(FS)1 advised that based on past experience, it took about six months and \$2 million for IDT to process a case on average. The cost and time varied

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from case to case depending on the complexity of the case and whether appeals had been lodged by the defendant. In regard to the recovery of costs, SFS and DS(FS)<sup>1</sup> clarified that the penalty payable as imposed by IDT at the completion of a case would be credited to the General Revenue Account. The level of penalty imposed was related to the nature and gravity of the offence(s) concerned.

### **Staffing provision for the Financial Services Bureau**

3.12 Mr Albert HO noted that the FSB had proposed to create three directorate posts in 2002-03 to implement various initiatives to develop and promote Hong Kong's financial markets. He asked if the initiatives had been planned in response to market needs or with the specific aim of attracting more investments through intensive marketing efforts. If it was the latter case, he enquired about the extent of involvement of SFS and the Financial Secretary (FS) in such marketing activities.

3.13 SFS said that development of Hong Kong's financial markets were crucial to the local economy. With the Mainland's entry into the World Trade Organization, many opportunities had been created, both in the Mainland and within the region. To successfully capitalize such opportunities, many initiatives would have to be proactively implemented. The planned new directorate posts would be mainly responsible for the formulation of strategies to further develop and promote the financial services industry of Hong Kong, with a view to improving the competitiveness of Hong Kong's financial markets and enhancing Hong Kong's status as a major international financial centre.

3.14 SFS further said that the Administration had been proactively promoting Hong Kong's financial markets through road shows and other promotional activities carried out locally and overseas to attract investments from overseas markets. These activities were carried out at different levels. He himself had been and would be very much involved in these activities and in related

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discussions with counterpart authorities of other jurisdictions. He would not rule out that FS or even the Chief Executive would be involved in Hong Kong's high-level business development campaigns in the future.

3.15 Ms Emily LAU highlighted that the Cross-Party coalition of the Legislative Council had indicated that it would not support proposals from the Administration for creation of new directorate staff. She suggested that should the Administration consider it necessary to provide additional directorate staff in FSB, it should reshuffle duties internally such that any additional new directorate posts in FSB could be offset by existing directorate posts that were operating below capacity.

3.16 Mr James TIEN said that the Chief Executive had already announced that a ministerial system would be put in place in July 2002, and as a result various bureaux might undergo a process of consolidation. Echoing Ms LAU's suggestion, he considered that this would provide an opportunity to re-distribute the workload among various bureaux and departments in the light of present-day and future operational requirements.

3.17 SFS responded that the budgetary provision of new directorate posts in FSB had been drawn up on the basis of the expected resource requirements for developing Hong Kong's financial markets. The Administration would include detailed justifications in the future proposal for the new posts, if that was decided to be pursued, such that members would be able to understand the needs and benefits of creating those posts.

### **Remuneration for staff of the Hong Kong Monetary Authority**

3.18 Ms Emily LAU noted that the Administration had projected that there would be a 4.75% reduction in the salary of civil servants for 2002-03. Ms LAU also understood from the press reports that the Hong Kong Monetary Authority (HKMA) had planned for a 10% salary reduction for its staff in the next year. In

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this regard, she asked if the proposed salary reduction had been included in HKMA's budget for 2002-03.

3.19 In response, the Deputy Chief Executive, HKMA confirmed that HKMA had already budgeted a reduction in headcount and staffing expenses for 2002. HKMA's budget for 2002 was approved by the Exchange Fund Advisory Committee in November 2001. The annual review of the salary for HKMA staff based on survey findings on industry salary levels was being considered by the Advisory Committee. As the Advisory Committee had not arrived at any decision on this matter, he was not in a position to comment on outcome of the salary review for HKMA staff in 2002.

3.20 Ms Emily LAU expressed concern that some proposals concerning HKMA, such as those concerning staff salary levels and major expenditure items had not been presented to Legislative Council (LegCo) for consideration. She asked if there were plans to increase LegCo's involvement in the decision making process for major proposals concerning HKMA. The Chairman said that the issue was not related to the Estimates. SFS agreed that the current meeting was not a suitable forum for discussion of the subject.