

立法會
Legislative Council

LC Paper No. CB(1) 2468/01-02
(These minutes have been
seen by the Administration)

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Legislative Council
Panel on Financial Affairs

Minutes of meeting held on
Monday, 3 June 2002 at 10:45 am
in the Chamber of the Legislative Council Building

- Members present** : Hon Ambrose LAU Hon-chuen, GBS, JP (Chairman)
Hon Henry WU King-cheong, BBS (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBS, JP
Hon NG Leung-sing, JP
Hon James TO Kun-sun
Hon Bernard CHAN
Hon CHAN Kam-lam
Hon SIN Chung-kai
Dr Hon Philip WONG Yu-hong
Hon Jasper TSANG Yok-sing, JP
Hon Emily LAU Wai-hing, JP
Hon MA Fung-kwok
- Non-Panel members attending** : Hon Andrew WONG Wang-fat, JP
Hon Howard YOUNG, JP
- Member absent** : Hon Eric LI Ka-cheung, JP

Action

- Public officers attending** : For item IV
- Mr Benjamin TANG
Commissioner of Insurance
- Miss Susie HO
Deputy Secretary for Financial Services
- Mr H Y MOK
Assistant Commissioner of Insurance (General)
- For item V
- Mr Kenneth PANG
Commissioner of Rating and Valuation
- Mrs Mimi BROWN
Assistant Commissioner of Rating and Valuation
- Mr Martin GLASS
Deputy Secretary for the Treasury
- Miss Erica NG
Principal Assistant Secretary for the Treasury (Revenue)
- Mr Allen LEUNG
Principal Assistant Secretary for the Treasury
(Management Accounting)
- Clerk in attendance** : Ms Connie SZETO
Chief Assistant Secretary (1)4
- Staff in attendance** : Mr WONG Tin-yau, Anthony
Senior Assistant Secretary (1)8
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I Confirmation of minutes of meeting and matters arising
(LC Paper No. CB(1)1853/01-02)

The minutes of the special meeting held on 26 February 2002 were confirmed.

Action

II Information papers issued since last meeting

(LC Paper Nos. CB(1)1741/01-02, CB(1)1740/01-02, CB(1)1731/01-02, CB(1)1674/01-02(01), CB(1)1671/01-02(01), and CB(1)1671/01-02(02))

2. Members noted that six information papers had been issued since last meeting.

III Date and items for discussion for next meeting

(LC Paper Nos. CB(1)1842/01-02(01) and CB(1)1842/01-02(02))

Regular Panel meeting on 5 July 2002

3. The Chairman advised that the next Panel meeting was scheduled for Friday, 5 July 2002 at 2:30 pm, and that the Administration had proposed the following two items for discussion at the meeting:

- (a) Briefing on legislative amendment to the Stamp Duty Ordinance (Cap 117); and
- (b) Briefing on legislative amendment to the Dutiable Commodities Regulations.

4. The Chairman also advised that Mr Henry WU proposed to discuss issues relating to the power failure at the Hong Kong Exchanges and Clearing Limited (HKEx) on 28 May 2002 which had caused disruptions to the futures and options trading system. Mr WU had suggested to invite representatives of the Administration, the Securities and Futures Commission (SFC) and the HKEx to attend the meeting.

5. Members agreed to discuss the above three items at the next Panel meeting to be held on 5 July 2002.

Special Panel meeting on 11 June 2002

6. Miss Emily LAU noted that the Census and Statistics Department (C&SD) had published the "Hong Kong population projections 2002-2031" in early May 2002 (LC Paper Nos. CB(1)1671/01-02(01) to (02)). As the projections had far-reaching implications on the formulation of economic and social policies and programmes in the future, she suggested inviting the Administration to brief members on the subject.

7. Mr CHAN Kam-lam pointed out that since specific issues relating to the population projections fell under the purview of different LegCo Panels, it might not be appropriate for this Panel to discuss the subject in detail. After

Action

deliberation, members agreed to invite the Administration to brief the Panel on the methodology, bases, assumptions and results of the population projections. While members might exchange views with the Administration on broad issues arising from the projection results, specific issues relevant to the purview of other LegCo Panels should be taken up by respective Panels as appropriate at a latter stage.

8. Members agreed that a special meeting should be held to discuss the "Hong Kong Population Projections 2002-2031". As Mr TIEN informed the Panel that he would move a motion on "Population policy" for debate at the Council meeting on 12 June 2002, members agreed to schedule the special meeting on Tuesday, 11 June 2002, at 2:30 pm.

IV Monitoring of the financial position of authorized insurers in Hong Kong and the compensation arrangements for insurance policy holders

(LC Paper Nos. CB(1)1842/01-02(03) and CB(1)1891/01-02(01))

9. As this agenda item was proposed for discussion by Mr James TIEN, the Chairman invited Mr TIEN to brief members on his concerns.

10. Mr James TIEN expressed concern that insolvency of the Australian parent company of the HIH group of insurance companies in 2001 had demonstrated the inadequacy of the existing regulatory regime for monitoring the financial position of the overseas parent companies of authorized insurers in Hong Kong. Mr TIEN urged the Administration to put in place measures to strengthen the existing regulatory regime. Mr TIEN further opined that the Administration's proposal of increasing the Employees' Compensation insurance levy from 5.3% to 6.3% to replenish the Employees Compensation Assistance Fund (ECAAF), which had been depleted by claims arising from the HIH insolvency, was unfair to employers.

11. At the Chairman's invitation, the Deputy Secretary for Financial Services (DS/FS) and the Commissioner of Insurance (C of I) briefed members on the regulatory regime for authorized insurers in Hong Kong, measures to enhance regulation and the compensation arrangements for insurance policyholders in the event of insurer insolvency.

Reinsurance coverage for direct insurers

12. Mr James TIEN pointed out that many authorized insurers in Hong Kong had arranged reinsurance coverage for their businesses with their own group companies. He was concerned that the insurers would be exposed to risk should their group companies or parent companies become insolvent and enquired about measures the Administration would take to address this problem.

Action

OCI

13. C of I advised that it was not uncommon in the insurance industry for insurers to arrange reinsurance coverage with their own group companies. To reduce the risk on an insurer arising from the insolvency of its group companies, the OCI was considering to introduce an admissibility limit to the amount of reinsurance recoverable by an insurer from group companies, including the parent companies, so that this type of assets if exceeding the limit, would be disallowed in assessing the solvency position of the insurer. The industry would soon be consulted on the details of the proposal, such as the limit to be set. At Mr TIEN's request, C of I undertook to inform the Panel as soon as the proposal was implemented.

14. Mr Bernard CHAN shared Mr TIEN's concern. He said that problems relating to reinsurance coverage had become prevalent after the 9-11 incident. Mr CHAN was concerned that without appropriate reinsurance arrangements in place, direct insurers would not be able to spread out their risks and as a result the stability of the insurance industry would be undermined.

15. C of I said that the Administration recognized the serious repercussions of the 9-11 incident on the insurance industry. To address the problem of absence of reinsurance coverage for terrorist activities due to the withdrawal of reinsurers from the market as they perceived the high risk involved in providing reinsurance coverage for terrorist activities on treaty arrangements, the Administration had obtained the approval of the Finance Committee in early 2002 to provide a HK\$10 billion facility to cover employees' compensation (EC) liabilities of direct insurers caused by terrorist activities. This arrangement had helped maintain stability in the insurance market and provided protection available to employees under insurance. The Administration had been closely monitoring the situation in the reinsurance market and had undertaken to provide quarterly reports to the Panel on the subject.

16. To enhance the stability of the insurance industry and protection for interests of policyholders, C of I advised that the Office of the Commissioner of Insurance (OCI) had stepped up regular on-site inspections on authorized insurers to ensure their compliance with relevant statutory requirements. Moreover, the Administration was actively pursuing new initiatives with the industry to enhance the effectiveness of the regulatory regime.

Issues related to the HIH insolvency

17. Mr James TIEN pointed out that while increasing employers' levy for ECAF would only help relieve the financial strain on the Fund, it would not offer long term solution for issues relating to compensation arrangements for policyholders when an insurer became insolvent. He asked whether the Administration would consider injecting resources to ECAF should event similar to the HIH insolvency reoccur.

Action

18. In response, DS/FS advised that, at present, compensation arrangements for policyholders in the event of insurer insolvency were only provided for compulsory motor and EC insurance policies. The ECAF was established to cover liabilities, inter alia, arising from insolvencies of EC insurers. The Administration would commission a consultancy to study the feasibility of introducing compensation arrangement to other insurance policies. As regards the concern about the impact of insolvency of EC insurers on ECAF, DS/FS said that in the light of experience of the HIH insolvency, the Administration considered that, in order to avoid creating strain on the financial resources of ECAF, it was appropriate to excise insurer insolvency from the ambit of ECAF, and hence recommended to set up a new Employees Compensation Insurer Insolvency Scheme (the Scheme) to cover such claims. Funding of the Scheme would be from levies on EC insurers. However, as to the extent of the levies that would be passed to policyholders, i.e. employers, it would be entirely a commercial decision of EC insurers.

19. Mr Bernard CHAN said that the insurance industry had indeed incurred substantial deficits in EC and motor insurance businesses in past years (the industry had paid claims of over \$5 billion and \$1.5 billion in respect of EC and motor insurance businesses in the past ten years respectively). As such, there was pressure on the industry to increase insurance premium and to pass on the additional cost to policyholders.

20. Dr Philip WONG urged the Administration to step up regulation on the financial capacity of authorized insurers in Hong Kong to ensure that their operation would not be adversely affected should their overseas parent companies become insolvent. He further enquired about the progress of investigation into the HIH insolvency in Australia, and liquidation arrangements of its three subsidiaries in Hong Kong.

21. In respect of monitoring the financial capacity of insurers, C of I advised that it was a statutory requirement for a general insurer to maintain a specified amount of assets in Hong Kong to ensure that, in the event of insolvency of the insurer, assets would be available in Hong Kong to meet its liabilities. If the Insurance Authority (IA) had concern over the affairs of an insurer, it could exercise its powers of intervention, which included, inter alia, restricting the businesses of the insurer, and requiring it to inject additional capital into the company.

22. On the investigation of HIH insolvency, C of I said that the Australian authorities had set up a Royal Commission to investigate into the incident. The OCI had been maintaining close liaison with the committee on this matter. As regards the three HIH subsidiaries in Hong Kong, IA had applied to the Court to wind them up and liquidate their assets. Hearing of the winding up petition would be held at the end of June 2002 and OCI would monitor the incident

Action

closely to ensure satisfactory compensation arrangements for concerned policyholders.

Employee compensation insurance coverage for high-risk operations

23. Mr Henry WU expressed concern about difficulties for employers to obtain insurance coverage for their employees who engaged in high-risk operations. He pointed out that at times, insurers would charge extremely high premiums for EC policies where employers could not afford. Given that it was a statutory requirement for employers to purchase EC insurance for their employees, Mr WU was concerned that employers would be forced to breach the law under such circumstances.

24. C of I stressed that there was a sufficient number of EC insurers in the market so that employers could meet their obligation under the law and IA should not intervene in the determination of premium rates which was a matter between employers and insurers. The IA would refer employers who had difficulty in finding EC insurers to industry bodies, such as the Hong Kong Federation of Insurers which would be willing to assist employers on the matter.

Other issues

25. On Mr NG Leung-sing's enquiry about measures to enhance transparency of the insurance industry, C of I advised that OCI had been releasing quarterly statistics of the industry on an aggregate basis and individual insurers' annual statistics through its Annual Report since 1998. Breakdown statistics and information on different types of insurance business were provided to promote greater transparency of the industry.

26. As regards measures to enhance corporate governance of insurance companies, C of I said that OCI had proposed to issue a Guidance Note (the Note) on Corporate Governance of Authorized Insurers setting out matters, such as the roles and duties of the directors and controllers, with a view to providing guidance on good practices for insurers to follow. The industry and other interested parties had been consulted on the Note. The OCI intended to issue the Note within 2002. C of I added that despite the Note would be non-statutory, breach of it might have negative implication on the directors and controllers as fit and proper persons to run the business and hence authorization of the company as an insurer.

27. At the Chairman's request, C of I agreed to provide the Panel with particulars of the proposed measures to enhance the regulatory regime for the insurance industry when they were available.

OCI

Action

V Proposed improvement measures for the future operation of the Rating and Valuation Department - Establishment of the Rating and Valuation Department Trading Fund
(LC Paper No. CB(1)1842/01-02(04))

28. At the Chairman's invitation, the Commissioner of Rating and Valuation (C of RV) briefed members on the Administration's proposal of establishing the Rating and Valuation Department (RVD) Trading Fund. C of RV highlighted the benefits in moving RVD to trading fund status. For instance, RVD would be provided with financial flexibility and autonomy to enable it to operate on a commercial basis in delivering quality, speedy and innovative services and in developing new services. There would be improvements in efficiency and cost effectiveness in RVD's operation. Moreover, moving to full cost accountability would drive RVD to secure greater efficiency and higher productivity resulting in savings in operating costs in the long run. To the community, RVD Trading Fund could respond promptly and effectively to rising customer demand for improved and new services.

Viability of RVD Trading Fund

29. Some members expressed concern that as existing client bureaux/departments of RVD, which were estimated to account for 86% of the potential revenue of RVD Trading Fund (the Fund), would be allowed to choose their service providers in future, in the event that these clients ceased to use RVD's services, the Fund could not stay viable in the long run. Mr James TIEN further remarked that since staff costs in the public sector were much higher than those in the private sector, should staff of the Fund remain as civil servants, revenue generated from the Fund might not be able to meet its expenses. Hence, Mr TIEN was concerned with how the potential benefits of enhancing the cost effectiveness and productivity of RVD could be realized.

30. In response, C of RV advised that the main sources of revenue of RVD Trading Fund would be from Service Level Agreements (SLA) with its existing client bureaux including the Finance Bureau and Housing Bureau for provision of statutory services, such as valuation of properties and administration of the Rates and Government Rent collection system, as well as advisory and mediatory services related to landlord and tenant matters. These services were expected to provide a stable source for some 86% of the income of RVD Trading Fund. Cross-charging for services to other departments and public bodies, such as valuation and rental advice, would account for about 13% of the income. Directly-charged services to the public, such as valuation and property related information services, would cover the remaining balance of the Fund's earnings. The RVD would prepare SLAs with its major clients to formalize the customer-supplier relationship. As RVD had a competitive edge over other services providers in the provision of statutory services, and that establishment of RVD Trading Fund would bring further improvements in the efficiency and quality of services, it was envisaged that RVD's major clients would continue to use RVD's

Action

services. As such, the Administration considered that RVD Trading Fund could stay viable. The Deputy Secretary for Treasury (DS/Tsy) supplemented that the Administration currently had no plan to invite other service providers to provide RVD's statutory services. Hence, existing client bureaux would continue to use RVD's services. As regards other departments, they would be required to continue to use RVD's service for a certain period and allowed to choose alternative service providers under a phased programme after such period.

31. Regarding the concern about high staff costs of RVD Trading Fund, C of RV said that notwithstanding that staff of the Fund would continue as civil servants, RVD as a trading fund would have the flexibility to adjust its staffing establishment. It could recruit temporary staff or contract out its services to further enhance flexibility.

32. On the productivity gains of established trading funds, DS/Tsy advised that established trading funds in general were able to deliver higher gains in productivity than the Enhanced Productivity Programme (EPP) introduced for the public sector. For instance, the Electrical and Mechanical Services (EMS) Trading Fund had achieved 14.9% savings in its expenditure over the past three years vis-à-vis the EPP target of 5%.

Concerns expressed by staff of RVD

33. Mr LEE Cheuk-yan said that it was envisaged that RVD would contract out part of its existing services following the establishment of RVD Trading Fund with a view to enhancing the Department's efficiency and raising its productivity. Mr LEE shared the concerns expressed by staff on possible redundancy and adverse impact on their promotion prospects. In this regard, he enquired about RVD's plan in contracting out its services after the Department had moved to trading fund status. While agreeing that RVD should be allowed flexibility to contract out its services to meet its operational needs, Mr SIN Chung-kai opined that statutory core services, such as property valuation, should continue to be provided by the Department.

34. C of RV replied that by moving RVD to trading fund status, the Department would become a separate accounting entity within the Government. The RVD Trading Fund would be required to achieve a financial return on its average net fixed assets and RVD would have to deliver on-going cost and efficiency improvements to ensure that the return was met. Nonetheless, RVD would remain essentially a government department, and its staff would still be civil servants. As regards RVD Trading Fund's core business and the plan of contracting out its services, C for RV said that the Fund would retain the bulk of its existing services. Hence, staff redundancy was not envisaged. Moreover, given the scope for RVD to develop new services, staff career prospects were unlikely to be affected. However, as the Business Plan and medium range Corporate Plan of the Fund were yet to be worked out, it would be difficult to provide details at this stage on what activities/services could be contracted out in

Action

the future. C for RV stressed that, at present, when it was justified on consideration of constraints in existing manpower resources and urgency of the tasks concerned, RVD had been contracting out its services to the private sector. For instance, the annual survey on vacant premises had been contracted out in view of stringent manpower support for undertaking the rates concession.

Competition with the market

35. Mr CHAN Kam-lam noted that one of the benefits of establishing RVD Trading Fund was to enable RVD to develop new services funded from its revenue. However, Mr CHAN was concerned that involvement of RVD as a service provider in the private sector might cause unfair competition to private companies and conflict with RVD's role as a government department. Mr SIN Chung-kai was of the view that RVD should not compete with the private sector in provision of services.

36. C for RV stressed that the main objective of setting up RVD Trading Fund was not to generate additional income through provision of non-government services. The new services to be developed by RVD Trading Fund had to be incidental to its government functions. Hence, there should not be any concern over RVD competing with private sector in business. Nevertheless, there would be some scope for RVD to develop new services, such as provision of additional information to the property sector and the public after it become a trading fund. At present, RVD had been providing property information to the public and the property sector at reasonable charges. It was considered that the provision of additional information would help enhance the transparency of the property market. This would complement the service of private service providers in the property sector rather than pose unfair competition in the market.

Determination on the fees and charges of RVD's services

37. Mr James TIEN was concerned that as RVD would cease to be a vote-funded department after it had moved to trading fund status, the Department would no longer be subject to monitoring by the Legislative Council (LegCo). In particular, he was concerned that LegCo could no longer govern RVD's fees and charges.

38. DS/Tsy responded that there were specific provisions under the Trading Fund Ordinance (Cap. 430) governing the operation of a trading fund, such as the production of annual Business Plan and medium range Corporate Plan, and that a trading fund was required to conduct its business on a prudent commercial basis. Where provided, fees and charges for a trading fund had to be approved by LegCo. Moreover, annual accounts and reports of trading funds were required to be tabled at LegCo. When issues of concern were identified, the Administration would take them up with departments concerned and they could be discussed at relevant Panels as well.

Action

39. Mr Henry WU expressed concern that when RVD operated as a trading fund, the Department would charge fees for its existing free services such as providing advice and mediation service relating to landlord and tenant disputes. He enquired about the Administration's policy in this regard.

40. C of RV advised that while some of RVD's existing services to the public were free, some services were partly subsidized by the Government and some were charged on full cost recovery principle. However, after RVD had become a trading fund, it was required to operate in a full cost recovery principle and to recover the service costs from the users. As such, if the Administration considered that it was appropriate for RVD to continue to provide a service to the public free of charge, the service cost involved would be met by cross-charging from the Administration.

41. Responding to Mr CHAN Kam-lam's enquiry about the mechanism for calculating the service costs of RVD Trading Fund, C of RV said that the details would be provided in SLAs, Business Plan and Corporate Plan of the Fund to be prepared in due course. DS/Tsy supplemented that the Administration had developed trading fund manual setting out the principles to be adopted for the operation of trading funds. The Principal Assistant Secretary for the Treasury (Management Accounting) added that the Treasury had issued the Management Accounting Handbook providing guidelines to departments including trading funds for calculation of service costs. He undertook to provide a copy of the hand book for members' reference after the meeting.

(Post meeting note: The Administration provided a sample copy each of Volume I and Volume II of the Management Accounting Handbook and members were notified vide LC Paper No. CB(1)2323/01-02 dated 22 July 2002.)

The way forward

42. While agreeing that the proposed establishment of RVD Trading Fund would bring about improvements in RVD's efficiency and cost-effectiveness, members in general found it difficult to support the proposal in the absence of details on the operation of the Fund, such as, rate of return, business and corporate plans, staff deployment arrangements. Members urged the Administration to provide the details for Panel's further deliberation in future meetings.

43. C of RV advised that the Administration's plan was to bring RVD Trading Fund into operation on 1 July 2003. The Administration had engaged a consultant to help prepare SLAs, Framework Agreements, Business and Corporate Plans for the Fund. The work was expected to be completed by October 2002 and RVD would then report the details to the Public Service Policy Group to be chaired by the Chief Secretary. The Panel would be consulted on the details before the end of 2002. DS/Tsy stressed that the present paper was to

Action

seek members' preliminary view on the proposal of setting up RVD Trading Fund. There would be further consultation with the Panel when the details were available.

Research on established trading funds

44. Mr James TIEN noted from the Administration's information paper that the operation of RVD Trading Fund would be similar to three existing trading funds namely, the EMS Trading Fund, the Land Registry Trading Fund and the Companies Registry Trading Fund. He was aware that a number of other trading funds, such as the Post Office Trading Fund, had been set up in recent years. To facilitate members' consideration of the RVD Trading Fund proposal, Mr TIEN suggested that the Panel should request the LegCo Research and Library Services Division to conduct a research examining the operation, performance, cost-effectiveness, financial accountability and staffing arrangements of established trading funds. Members agreed.

VI Any other business

45. There being no other business, the meeting ended at 12:35 pm.

Legislative Council Secretariat
2 September 2002