

立法會
Legislative Council

LC Paper No. CB(1)568/04-05
(These minutes have been seen
by the Administration)

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Panel on Financial Affairs

**Minutes of special meeting
held on Wednesday, 10 November 2004 at 10:45 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon Bernard CHAN, JP (Chairman)
Hon Ronny TONG Ka-wah, SC (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon LEE Cheuk-yan
Hon James TO Kun-sun
Hon CHAN Kam-lam, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS
Hon CHIM Pui-chung
Hon Albert Jinghan CHENG
Hon TAM Heung-man
- Member attending** : Hon Audrey EU Yuet-mee, SC, JP
- Members absent** : Hon Albert HO Chun-yan
Dr Hon David LI Kwok-po, GBS, JP
Hon SIN Chung-kai, JP

Public officers attending : Agenda Item I

Mr Frederick MA, JP
Secretary for Financial Services and the Treasury

Mr Kevin HO
Permanent Secretary for Financial Services and
the Treasury (Financial Services)

Ms Edna WONG
Principal Assistant Secretary for Financial Services and
the Treasury (Financial Services)

Agenda Item II

Mr Martin GLASS
Deputy Secretary for Financial Services and the Treasury
(Treasury)2

Miss Erica NG
Principal Assistant Secretary for Financial Services and
the Treasury (Treasury) (Revenue)

Mr Edward MAK
Assistant Secretary for Financial Services and
the Treasury (Treasury) (Revenue) 1

Mr Patrick CHAN
Principal Assistant Secretary for Environment, Transport
and Works (Transport)

Ms Carolina YIP
Assistant Commissioner for Transport (Administration &
Licensing)

Ms Amy CHOW
Principal Executive Officer (VALID, Licensing &
Prosecution), Transport Department

Clerk in attendance : Miss Salumi CHAN
Chief Council Secretary (1)5

Staff in attendance : Ms Pauline NG
Assistant Secretary General 1

Mr KAU Kin-wah
Assistant Legal Adviser 6

Ms Rosalind MA
Senior Council Secretary (1)8

Ms May LEUNG
Legislative Assistant

Action

I. Briefing on proposed amendments to the Securities and Futures Ordinance

(LC Paper No. CB(1)177/04-05(01) — Paper provided by the Administration

LC Paper No. CB(1)177/04-05(02) — Background brief prepared by the Legislative Council Secretariat)

Briefing by the Administration

At the invitation of the Chairman, the Secretary for Financial Services and the Treasury (SFST) briefed members on the Administration's proposal of improving the Securities and Futures Commission (SFC)'s governance structure such that SFC would be led by a non-executive chairman while the executive arm would be headed by a chief executive officer (CEO). He pointed out that in the past 15 years, SFC had successfully put in place a regulatory framework which enshrined the principles of competitiveness, fairness and investor protection. To maintain the status of Hong Kong as an international financial centre and to meet the challenges of the future, there was a need to continually enhance the regulatory structure to ensure the effective functioning of SFC. As the market regulator, SFC should set exemplary standard for others to follow. This was also in line with the Government's continued drive to enhance the governance of public bodies, e.g. the Airport Authority (AA), the Kowloon-Canton Railway Corporation (KCRC) and the Mass Transit Railway Corporation (MTRC). SFST advised that the SFC governing body agreed to the splitting of the functions of the chairman and CEO as it was consistent with corporate governance principles. Concerning the question of whether the chairman should be non-executive, SFC had raised several practical implications, as well as possible benefit. The Commission's views and the Government's response were set out in Annex B to the paper.

2. SFST highlighted for members' information the following features of the proposal -

- (a) The role of the chairman should be clearly separated from that of the CEO. The non-executive chairman would not be involved in day-to-day regulatory work;
- (b) Given public expectation on the independence of the post of the chairman of SFC, the Administration's policy intention was that during the tenure of the office of the chairman, he/she should not be a director of any listed company in Hong Kong or should not have any material interest in any principal business activity of or be involved in any material business dealing with a listed company, or any person or institution engaged in activities regulated by SFC;
- (c) The CEO should have the executive responsibility on the day-to-day running of SFC. He/she should implement the strategy agreed by the governing body and facilitate the effective functioning of the governing body; and
- (d) If the Government's proposed model was adopted (i.e. non-executive chairman), it was expected that the financial implications to SFC as a result of the creation of a CEO post would be minimal.

Discussion

Experience of overseas regulators

3. Referring to the overseas experience set out in Annex A to the paper, Ms Emily LAU noted that separation of duties of the non-executive chairman and the CEO was only implemented in the Financial Services Authority (FSA) of United Kingdom (UK) and the Monetary Authority of Singapore, but not in relevant regulators in the United States, Australia and Germany. To facilitate members' consideration of the Administration's proposal, Ms LAU considered that the Administration should provide more information on the experience of relevant overseas regulators.

4. In reply, SFST said that when making reference to the experience of relevant overseas regulators, consideration should be given to the differences in the regulatory structures between those jurisdictions and Hong Kong. He also pointed out that the regulatory models in overseas jurisdictions were designed to fit the unique circumstances in their financial markets, and hence there would not be a standard model suitable for all regulators and a further analysis of overseas practices might not be of high reference value to Hong Kong. Ms Emily LAU considered that information about the effectiveness of the governance structure of relevant overseas regulators would facilitate members' consideration of the current proposal. SFST

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pointed out that it was not appropriate for the Administration to say whether the governance structure of relevant overseas regulators was effective. The Administration would however consider what further information in relation to relevant overseas regulators could be provided to the Panel.

5. At the suggestion of Ms Emily LAU, the Panel agreed that the Research and Library Services Division of the LegCo Secretariat should prepare an information note on the situation of the relevant overseas regulators to facilitate Members' consideration of the Administration's proposal.

(Post-meeting note: The English and Chinese versions of the information note (LC Paper No. IN12/04-05) were circulated to members on 29 and 30 December 2004 respectively.)

Roles and responsibilities of the non-executive chairman and CEO

6. Referring to the Penny Stock Incident in July 2002 which had revealed problems in the three-tier regulatory structure for the securities and futures market, Mr CHAN Kam-lam was concerned that the proposed splitting of the functions of the non-executive chairman and CEO might create more difficulties in the separation of powers and division of responsibilities, thereby jeopardizing the effective performance of SFC's regulatory functions. He doubted whether the splitting proposal would further complicate the existing three-tier regulatory structure and cause confusion in the roles and responsibilities of the parties concerned, i.e. the Government, SFC and the Hong Kong Exchanges and Clearing Limited (HKEx).

7. While not objecting to the proposal, Miss TAM Heung-man expressed concern about the impact of the proposal on the efficiency of SFC's work and the possible overlapping of responsibilities between the chairman and the CEO. She was particularly concerned about the difficulties for the part-time non-executive chairman to maintain close communication with the CEO.

8. In response, SFST explained that the existing roles and responsibilities of the Government, SFC and HKEx under the three-tier regulatory structure would not be affected by the current proposal. Under the three-tier regulatory structure, the Government was the policy maker while SFC and HKEx were the independent statutory regulator and frontline market regulator respectively. As regards the roles and responsibilities of the non-executive chairman and the CEO of SFC, SFST referred members to paragraphs 8 and 9 of the paper. In brief, the chairman should focus on establishing and developing an effective governing body; setting agenda and establishing priorities; facilitating effective contribution of non-executive directors; and representing SFC publicly, in liaison with local and international financial institutions and other stakeholders. The key responsibilities of the CEO included reporting to the governing body regularly with appropriate, timely and quality information; informing and consulting the chairman on all matters of significance to SFC; developing and delivering the strategic objectives agreed with the governing

body; and overseeing the day-to-day regulatory work of SFC. SFST said that there would not be overlapping in the responsibilities of the two posts.

9. On the CEO's responsibility to inform and consult the chairman on all matters of significance to SFC, Miss TAM Heung-man enquired about the impact of this requirement on the efficiency of work of SFC. SFST said that splitting the responsibilities of the chairman and the executive arm was the global trend for enhancing corporate governance in public bodies. To introduce adequate checks and balances in the governance structure of public bodies, more parties would unavoidably be involved in the decision making process. Nevertheless, the issue of efficiency could be addressed by putting in place proper mechanism for decision making and identifying suitable talents for the relevant posts. Moreover, with the board of directors as the governing body overseeing the work of the public bodies, the splitting of responsibilities would not have adverse impact on efficiency.

10. Mr CHAN Kam-lam expressed concern that there might be conflicting views between the non-executive chairman appointed by the Government and the CEO in the implementation of Government policies and how the problem could be resolved. Mr CHIM Pui-chung pointed out that as observed from the experience of other public bodies in which there were separation of duties between the non-executive chairman and the CEO, conflicting views between the two often brought about adverse impact on the daily operation of the public bodies concerned. In this connection, Mr CHIM asked whether the non-executive chairman or the CEO would have the final say in case they had conflicting views.

11. In response, SFST pointed out that both the Government and SFC shared the common objectives of maintaining the status of Hong Kong as an international financial centre and enhancing the protection for investors. Having common objectives in their work, there should not be any real conflicts between the chairman and the CEO. With the SFC governing body playing a monitoring role, there were checks and balances on the powers and responsibilities of the chairman and the CEO. He pointed out that instead of having a supervisor/subordinate relationship, the chairman and the CEO would maintain close working relationship and work as a team to enhance the governance and regulatory work of SFC.

12. Referring to paragraph 8(b) of the paper, Mr Ronny TONG opined that in order to have clear separation of power, the non-executive chairman should not be responsible for setting agenda and establishing priorities, which might involve daily operation of SFC and the handling of individual cases. He suggested that the Administration should consider removing this from the key responsibilities of the chairman. SFST clarified that the non-executive chairman would be involved in setting agenda and establishing priorities among different functions of SFC, rather than on the day-to-day operation of SFC.

13. Mr Abraham SHEK opined that given the statutory powers conferred upon SFC under the Securities and Futures Ordinance (Cap. 571), the appointment of a non-executive chairman to play an important monitoring role in the overall direction of SFC's work through setting the agenda and establishing the priorities would be conducive to the governance of SFC. The responsibilities of the non-executive chairman mentioned in paragraph 8(b) of the paper should be retained.

14. Mr James TIEN supported the Administration's proposal in principle and considered the responsibilities of the chairman set out in paragraph 8 of the paper appropriate.

Requirements for the post of the non-executive chairman

15. Referring to the requirements for the post of the non-executive chairman of SFC set out in paragraph 14 of the paper, Ms Emily LAU and Mr Jeffrey LAM appreciated that the purpose of the requirements was to avoid any real or perceived conflict of interests but they were concerned whether it was possible for the Administration to identify a suitable candidate who met the requirements, which were reproduced as follows:

- (a) should not be a director of any listed company in Hong Kong; or
- (b) should not have any material interest in any principal business activity of or be involved in any material business dealing with a listed company, or any person or institution engaged in activities regulated by SFC.

16. Ms Emily LAU pointed out that some members of the SFC governing body had expressed similar concern in this regard (Attachment to Annex B to the paper). She also pointed out that according to press reports, the estimated nominal level of remuneration for the post of the non-executive chairman was only around \$100,000 per annum. Mr Jeffrey LAM was concerned that the non-executive chairman of SFC who met the requirements mentioned above would be detached from the financial services sector. This might result in his over-reliance on the CEO.

17. SFST responded that the requirements set out in paragraph 14 of the paper served to provide an additional safeguard to ensure the independence and credibility of the non-executive chairman of SFC. As the non-executive chairman of SFC would not be involved in day-to-day regulatory work but would focus on setting agenda and establishing priorities and representing SFC publicly in liaison with other institutions, he/she would have to rely on the CEO for overseeing the daily operation of SFC. SFST also pointed out that the remuneration level for the post of the non-executive chairman of SFC had yet to be worked out. In deciding the appropriate level of remuneration, the Administration would make reference to the pay level of comparable posts in other public bodies. In this connection, he pointed out that nominal remuneration was provided to the non-executive chairmen of other public

bodies such as AA, MTRC and KCRC. While recognizing that the pool of suitable candidates for the post would be small, SFST assured members that the Administration would endeavour to select a suitable candidate who would be willing to contribute his/her expertise for the benefit of the community despite the necessary requirements to avoid conflict of interests and the nominal level of remuneration offered.

18. Ms Emily LAU sought clarification on whether a candidate who was a former director of a listed company would be considered for appointment to the post of the non-executive chairman of SFC. In reply, SFST clarified that the requirements mentioned in paragraph 15 above was proposed to be applied to the post-holder during his tenure of the office of the non-executive chairman. Instead of looking for someone who had no existing connection with the financial services sector, the Administration would consider those candidates who were prepared to detach themselves from those business activities which might have real or perceived conflict of interests with his appointment as the non-executive chairman of SFC. SFST assured members that the appointment exercise would be conducted in a prudent manner, with a view to selecting a suitable, competent and credible individual who could perform the role of an independent non-executive chairman effectively.

19. Mr James TIEN said that Members of the Liberal Party were of the view that the requirements set out in paragraph 15 above should be relaxed so that more competent candidates could be considered for appointment. In this connection, he considered that declaration of interests should suffice, and sought clarification on the definition of “material interest” and how the requirement in paragraph 15(b) above would apply in assessing the eligibility of a candidate. SFST explained that the term “material interest” covered major business activities or dealings with listed companies which might involve conflict of interests with the work of the non-executive chairman of SFC. Dealings such as holding of minority shares for personal investment or having bank accounts would not be considered as “material interest”. Given the important regulatory role of SFC, the Administration considered the requirements appropriate. Nevertheless, the Administration had an open mind and would consider Members’ views on the appropriateness of the requirements.

20. The Chairman asked whether a candidate who was a major shareholder of a listed company would be considered for appointment. SFST said that the candidate might consider transferring the shares to a trust account to avoid any conflict of interests with the appointment.

21. Ms Emily LAU expressed concern that there might be conflict of interests between the career history of a candidate and his appointment as the non-executive chairman of SFC. In this connection, she sought information on the career history of the chairman of FSA of UK. SFST advised that the current chairman of FSA had previously worked in the banking and public sectors. He referred members to the website of FSA for details of the career history of its chairman.

Fairness and transparency of the appointment mechanism

22. Mr Ronny TONG noted that under the current arrangements, appointments of the non-executive chairmen of public bodies were normally made by the Chief Executive (CE). He was concerned that the appointment mechanism lacked transparency, as the selection criteria and the selection process were not known to the public. Mr Albert CHENG expressed the same concern. He also doubted the fairness of the appointment mechanism given that CE was elected by an Election Committee comprising 800 members only. He queried whether the Administration had in mind a candidate for the post of the non-executive chairman of SFC and the current proposal was tailor-made for that candidate.

23. In response, SFST pointed out that all appointments of the non-executive chairmen of public bodies were made by CE after careful consideration of the competency and suitability of the candidates for the offices concerned. He did not agree that the appointment mechanism lacked transparency and pointed out that such appointments were subject to public scrutiny. Regarding the post of the non-executive chairman of SFC, it was not tailor-made for any particular candidate. While recognizing that the pool of suitable candidates for the post would be small, SFST assured members that the Administration would endeavour to select a suitable and competent candidate in a prudent manner. He reiterated that SFC played a critical role in strengthening the status of Hong Kong as an international financial centre and the Administration attached great importance to ensuring the good governance of SFC, as well as to preserving the integrity, reputation and image of SFC as an independent regulator.

24. Quoting the appointment of two former Commissioners for Transport as the non-executive directors of the Kowloon Motor Bus Limited as examples, Mr Albert CHENG pointed out that experience in the public sector, particularly in a statutory regulatory body, would be an advantage to the individual concerned in seeking future employment in the private sector. He was concerned about the possible conflict of interests if the non-executive chairman of SFC took up employment in a listed company after completion of his tenure of office.

25. In reply, SFST recalled that when he was appointed as a Principal Official under the Accountability System in 2002, some Legislative Council (LegCo) Members had expressed concerns about the possible conflict of interests between his former posts in the business sector and his appointment as a Principal Official. By now he had been working in the post for over two years, he believed that Members would agree that there were no conflict of interests between his career history and his present appointment. As regards the post of the non-executive chairman of SFC, SFST assured members that the Administration was mindful of the need to avoid any possible conflict of interests in the appointment.

Benefits of the proposal

26. Mr CHIM Pui-chung pointed out that apart from the regulatory functions, SFC had other major functions including balancing the interests among different sectors of the industry, training and education for the industry as well as promoting and expanding the securities and futures industry. He requested the Administration to assess whether SFC had performed these non-regulatory functions effectively in the past and whether the appointment of a non-executive chairman would enhance the performance of SFC in this respect. In response, SFST pointed out that the past performance of SFC was outside the scope of the subject under discussion and it was not appropriate to go into details in this respect. In brief, he was of the view that SFC had been doing a good job in promoting market quality and strengthening the status of Hong Kong as an international financial centre. SFST believed that through setting agenda and establishing priorities, the non-executive chairman could bring in new ideas for improving the work of SFC.

27. Mr Albert CHENG doubted whether the proposal would enhance the corporate governance of SFC. Given that SFC had been operating smoothly under the present structure, he queried the need for implementing the proposal in a hasty manner. Mr Ronny TONG shared Mr CHENG's view.

28. SFST reiterated that the proposal, which was in line with the Government's continued drive to enhance the governance of public bodies, would enhance the governance of SFC. He clarified that the proposal was not implemented in a hasty manner. In fact, the Administration had worked out the proposal after careful consideration of some Members' suggestion, which was raised during the scrutiny of the Securities and Futures Bill, for the splitting of the post of the chairman of SFC into the non-executive chairman and the CEO posts.

29. Mr Abraham SHEK considered that the proposal would enhance the corporate governance of SFC. It should be implemented in line with good corporate governance practice adopted by other public bodies.

Way forward

30. To facilitate members' consideration of the Administration's proposal, Mr Ronny TONG suggested that SFC and other interested parties be invited to present their views on the proposal to the Panel at a future meeting. Mr Albert CHENG supported his suggestion.

31. SFST pointed out that the written submission from the SFC governing body to the Administration was provided in the Attachment to Annex B to the paper. He reiterated that the SFC governing body agreed in principle to the splitting of the functions of chairman of SFC and CEO, as it was consistent with corporate governance principles. As stipulated in the Corporate Governance Action Plan 2003, the Administration was committed to promote good corporate governance in all public bodies. The current proposal was consistent with the Administration's policy and the practice adopted in other public bodies. It was not raised in light of any

perceived problems in the operation of SFC. SFST also pointed out that inviting the chairman of SFC to present his views on the proposal at a Panel meeting might give rise to concerns about conflict of interests, as the chairman was a full-time employee of SFC. Mr Albert CHENG disagreed that this arrangement would give rise to concerns about conflict of interests.

32. Mr Abraham SHEK said that Members of the Alliance supported the Administration's proposal of splitting the post of the chairman of SFC into the non-executive chairman and the CEO posts, as it would enhance the corporate governance of SFC. He did not consider it necessary for the Panel to discuss the proposal again at a future meeting and invite SFC or other interested parties to attend the meeting.

33. Mr CHIM Pui-chung and Mr Andrew LEUNG said that they supported the Administration's proposal in principle. They pointed out that after the relevant bill had been introduced into LegCo, it was expected that a bills committee might be formed by the House Committee to study the bill in detail. The views of the parties concerned on the bill would then be considered by the bills committee.

34. Mr James TIEN said that Members of the Liberal Party supported the Administration's proposal. He however did not object to the suggestion of inviting representatives of SFC and other interested parties to present their views to the Panel at a future meeting.

35. Ms Emily LAU and Miss TAM Heung-man considered that it was prudent for the Panel to further discuss the Administration's proposal at a future meeting and invite SFC and the interested parties to present their views on the proposal before the Panel decided whether or not it would support the proposal in principle. Ms LAU suggested that the relevant academics should also be invited to present their views.

36. Ms Audrey EU, a non-Panel Member, urged the Panel to study the policy issues involved in detail instead of leaving the policy issues to be deliberated by the bills committee.

37. In the light of the majority views of the members present, the Chairman concluded that arrangements would be made for further discussion of the Administration's proposal at a future Panel meeting, and that SFC and the interested organizations and academics would be invited to present their views on the proposal at the meeting and/or to provide written submissions. After discussion, members agreed that the meeting be scheduled for January 2005.

(Post-meeting note: With the concurrence of the Chairman, arrangements were made for further discussion of the Administration's proposal at the regular Panel meeting scheduled for Monday, 3 January 2005. The list of organizations (including SFC) and academics invited to attend the meeting

and/or to provide written submissions was circulated to members vide LC Paper No. CB(1)257/04-05 on 24 November 2004.)

II. Briefing on the Personalized Vehicle Registration Marks Scheme to be contained in the Revenue Bill 2005

(LC Paper No. CB(1)177/04-05(03) — Paper provided by the Administration

LC Paper No. CB(1)177/04-05(04) — Background brief prepared by the Legislative Council Secretariat)

Briefing by the Administration

38. At the invitation of the Chairman, the Deputy Secretary for Financial Services and the Treasury (DS(Tsy)2) briefed members on the Administration's proposals on the new Personalized Vehicle Registration Marks (PVRM) Scheme. He pointed out that the PVRM Scheme was announced by the Financial Secretary in his 2004-05 Budget as a proposal to raise revenue for the Government and to provide more choices of vehicle registration marks (VRMs) to vehicle owners. The Administration planned to introduce the relevant bill into LegCo within the current session for implementation of the PVRM Scheme. He also pointed out that the PVRM Scheme was proposed in addition to the two existing types of VRMs schemes, namely ordinary VRMs (OVRMs) and special VRMs (SVRMs), but was not meant to replace them nor to affect their existing arrangements. Revenue generated from the auctions of OVRMs and SVRMs would continue to be credited to the Lotteries Fund (LF). DS(Tsy)2 highlighted the following features of the proposed PVRM Scheme as set out in the paper:

- (a) General features of PVRM combinations
- Up to a maximum of eight letters of the alphabet, numerals and/or blank spaces.
 - Would not be approved if likely to cause enforcement problems.
 - Must not cause any person to believe that the vehicles bearing them belonged to or the persons using the vehicles represented the Government of Hong Kong, any country or the government of any country, an international organization in which Hong Kong Government participated, the offices of the Central People's Government in Hong Kong, or any public body in Hong Kong.
 - Must not be offensive to good taste or decency, confusing to law enforcement or detrimental to road safety.
 - Must not duplicate with existing VRMs or be of a similar pattern to existing forms of VRMs or permit/licence numbers.
- (b) Applications for PVRMs

- Applications for PVRMs should be made to the Commissioner for Transport (C for T). Applicants would be required to pay a deposit. The Administration proposed to set the deposit for each PVRM at \$20,000, taking into account affordability and the need to generate meaningful revenue.
- PVRM applications approved by C for T would be sold through auctions and the deposit paid would be taken as the reserve price in auctions.
- In the same spirit as the existing practice of reserving special numbers for auctioning under SVRM arrangements, the Administration proposed to reserve for auctioning certain PVRM combinations that should be more popular for revenue protection purposes.

Discussion

Level of deposit for a PVRM

39. Ms Audrey EU said that she had received some comments that the proposed level of deposit at \$20,000 for a PVRM was on the low side. Given that PVRM was a luxury to vehicle owners, interested owners should be willing to pay a higher price. On the other hand, as the PVRM scheme provided flexibility in the combinations for VRMs, vehicle owners would have more choices and might not be keen to bid for PVRM at auctions. As a result, bidding for PVRMs at auctions would not be as competitive as that at auctions of SVRMs, and the deposit paid by the applicants would likely turn out to be the final price for the PVRMs. Mr Jeffrey LAM shared Ms Audrey EU's view that PVRM was a luxury rather than a necessity for vehicle owners.

40. Mr CHAN Kam-lam opined that the level of deposit should be set having regard to the affordability of vehicle owners in general. In his view, the appropriate level of deposit should be around \$10,000 so that applications under the PVRM Scheme would not be limited to the wealthy class.

41. In reply, DS(Tsy)2 said that the level of deposit at \$20,000 for a PVRM was proposed by the Administration having regard to affordability and the need to generate additional revenue. The amount should be affordable taking into account the total costs to be borne by vehicle owners including the costs for running and maintaining a vehicle. It was only a preliminary proposal. The Administration would take into account the views of Members and the public in deciding the appropriate level of deposit.

42. Ms Audrey EU doubted whether it was appropriate to correlate the level of deposit to the running and maintenance costs of a vehicle. Nevertheless, she stressed the need to provide flexibility to allow adjustment of the deposit level in future. Responding to Ms EU's enquiry, DS(Tsy)2 advised that the Administration intended

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to set out the level of deposit in the legislation. To facilitate future adjustment, Ms EU suggested that the level of deposit be set out in the relevant subsidiary legislation. DS(Tsy)2 undertook to consider Ms EU's view.

Allocation and use of PVRMs

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43. Noting that a person allocated a PVRM would be required to assign the PVRM to his/her vehicle within 12 months of allocation, Mr CHAN Kam-lam considered the time gap too long and would in effect facilitate speculation activities. In this connection, he suggested that the period allowed for assigning the PVRM should be reduced to six months. In response, the Assistant Commissioner for Transport (Administration & Licensing) (AC for T(A&L)) and DS(Tsy)2 pointed out that the proposed requirement was in line with those applicable to both OVRMs and SVRMs. Mr CHAN considered that instead of simply adhering to the existing practice, the Administration should consider his suggestion further in order to curb speculation activities.

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44. Referring to the Administration's proposal of reserving for auctioning certain PVRM combinations that should be more popular for revenue protection purposes, Mr CHAN Kam-lam suggested that the PVRM combinations reserved by the Administration be set out in a list and made known to the public. AC for T(A&L) said that it indeed was the Administration's plan to set out in the legislation the PVRM combinations to be reserved as a means to protect and maximize revenue.

45. Noting that OVRMs might be transferred together with the vehicles to which they were assigned, subject to the payment of a fee, Mr WONG Ting-kwong asked whether the same mechanism would apply under the proposed PVRM scheme. AC for T(A&L) answered in the affirmative and pointed out that the mechanism would be similar to that for transferring OVRMs and the fees were the same.

Impact on intellectual properties rights

46. Mr James TIEN was concerned that with the flexibility allowed in the PVRM combinations, applicants might take the opportunity to obtain through the scheme VRMs bearing famous trademarks or international brand names, such as "IBM" or "GUCCI", with a view to selling them at a profitable price after auctions. He enquired whether the Administration had considered how to protect intellectual properties (IP) and curb speculation activities under the proposed scheme. In response, DS(Tsy)2 said that according to the legal advice obtained by the Government, the possibility was remote that the mere use of a PVRM would constitute an infringement of trademarks. It would be up to individual companies and trademark owners to decide whether they wished to purchase PVRMs resembling the names of their companies/products at auctions.

47. Mr James TIEN suggested that in line with the requirement that PVRM combinations must not cause any person to believe that the vehicles bearing them

belonged to or the persons using the vehicles represented the Government of Hong Kong, any country or the government of any country, PVRM combinations must also not cause any person to believe that the vehicles bearing them belonged to or the persons using the vehicles represented any trademark or international brand name. DS(Tsy)2 pointed out that in working out the restrictions on PVRM combinations, the Administration had made reference to overseas experience and noted that IP infringement had not been an issue of concern.

Impact on law enforcement

48. Mr CHAN Kam-lam noted that in order to facilitate law enforcement, the letters “I” and “O” would not be allowed in the PVRM combinations as they resembled the numerals “1” and “0” respectively. He queried the need to impose this restriction. To avoid any ambiguity, he suggested that consideration be given to setting out clearly in the legislation that for the sake of PVRM combinations, the letters “I” and “O” were considered equivalent to the numerals “1” and “0” respectively. AC for T(A&L) agreed to consider this suggestion in preparing the bill.

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49. Ms Emily LAU expressed grave concern about the impact of the great variety of PVRM combinations of up to a maximum of eight alphabets, numerals and/or blank spaces on law enforcement. Mr Albert CHENG expressed similar concern. Showing some samples of PVRM combinations at the meeting as illustrations, Mr CHENG considered it difficult for the frontline law enforcement officers, and the general public who were not native English speakers or who could not read English, to remember PVRMs made up of a number of alphabets within a short span of time.

50. DS(Tsy)2 responded that the proposed features of the PVRM Scheme had been worked out in consultation with the Hong Kong Police Force (HKPF) and the Transport Department (TD). In accordance with the proposed criteria, PVRM combinations which might cause confusion and difficulties in law enforcement would not be approved. DS(Tsy)2 also pointed out that as the existing VRMs consisted of alphabets and numerals as well. The Administration did not envisage any serious concern about law enforcement with the implementation of the PVRM Scheme. The Principal Assistant Secretary for Financial Services and the Treasury (Treasury) (Revenue) (PAS(Tsy/R)) added that there were no serious concerns about the difficulties in law enforcement expressed during the consultation with HKPF.

51. Responding to Mr Albert CHENG’s further enquiry, DS(Tsy)2 advised that in considering whether a PVRM application should be approved, C for T would rule out any PVRM combinations that were offensive to good taste and decency. The PVRM combination “ShameOnU” quoted by Mr CHENG would unlikely be approved.

Impact on the income of Lotteries Fund

52. Noting that the proceeds from the auctions of PVRMs would be credited to the Government revenue instead of LF, Mr Ronny TONG expressed concern about the

impact of the proposed scheme on the income of LF. He pointed out that after the implementation of the scheme, the traditional auctions for SVRMs would become less popular and the proceeds from such auctions would reduce, thus reducing the income of LF. Ms Audrey EU, Ms Emily LAU, Mr Abraham SHEK and Mr Albert CHENG also expressed concern about the impact of the proposed scheme on the income of LF. Mr CHENG considered it inappropriate for the Administration to propose the PVRM Scheme to raise revenue at the expense of the income of LF, which would indirectly reduce the resources available to social welfare organizations.

53. DS(Tsy)2 pointed out that there were inherent differences in the nature of the proposed PVRM Scheme and the SVRM Scheme. While the former provided personalized combinations of numerals and/or alphabets, the latter provided lucky numbers. The two schemes would therefore appeal to different groups of vehicle owners. He also pointed out that the continued keen interest of vehicle owners in the recent auction of SVRMs held after the announcement of the PVRM Scheme demonstrated that the popularity of SVRMs would not be unduly affected by the PVRM Scheme.

54. Responding to Ms Emily LAU's enquiry, DS(Tsy)2 said that the vast majority of the income of LF came from the "Mark Six" (about \$800 million a year), while the proceeds from auctions of SVRMs and OVRMs contributed about \$70 to \$80 million a year. The Administration did not envisage that the PVRM Scheme would have any adverse impact on the income of LF. Such impact, if any, would not be significant as there were other sources of income for LF.

Cost-effectiveness of the PVRM Scheme

55. Mr Jeffrey LAM was concerned about the administrative cost involved for the processing of PVRM applications and whether the proposed scheme could achieve the objective of raising Government revenue in a cost-effective manner. AC for T(A&L) replied that the annual recurrent cost for TD to administer the PVRM Scheme was estimated at about \$6 million. This was comparable to those for the OVRM and SVRM schemes. Mr LAM considered the administrative cost too high and suggested that it be trimmed down.

56. Responding to Mr WONG Ting-kwong's enquiry, AC for T (A&L) said that according to the Administration's estimate, TD should be able to process at least 3000 PVRM applications per year. Mr WONG considered it too costly to operate the PVRM scheme for just a few thousand applications per year. He pointed out that apart from the estimated non-recurrent cost of \$15 million and the estimated annual recurrent cost of \$6 million, other costs might be involved. For example, the costs for upgrading the computer system might be incurred every two to three years. He therefore urged the Administration to examine critically the cost-effectiveness of the proposed scheme. AC for T (A&L) reiterated that the non-recurrent cost of \$15 million was one-off and was different from the annual recurrent cost.

57. Mr Ronny TONG pointed out that given the flexibility allowed for applicants to make up PVRM combinations of their personal preferences, the PVRMs would unlikely attract many bidders at auctions and as a result, the bidding prices would not be as high as those in the traditional auctions for SVRMs. For example, he might apply for a PVRM bearing his name “RONNY TONG” but not many people would be interested in bidding it at auctions. While the proposed scheme might not be able to generate much revenue, it would result in the reduction of the income of LF. Hence, the overall financial gains from the auctions for VRMs (SVRMs and PVRMs) might experience a general decline. Mr TONG therefore doubted the effectiveness of the proposed scheme in raising revenue and whether the proposal was worth supporting.

58. Pointing out that PVRM combinations should be limited to a maximum of eight letters of the alphabet, numerals and/or blank spaces, DS(Tsy)2 advised that applications for combinations like “RONNY TONG” would not be approved. The alternative of using initial for names such as “R TONG” would be less personalized and could appeal to more vehicle owners in addition to the applicant himself. PAS(Tsy/R) supplemented that other than combinations representing personal names, the flexibility of the PVRM Scheme would enable a great variety of popular combinations which would appeal to more vehicle owners.

59. Noting that the estimated annual revenue from the PVRM Scheme was \$70 million, Ms Emily LAU enquired about the basis for arriving at the estimation. In reply, DS(Tsy)2 advised that the estimation was made with reference to the average proceeds from the existing auctions of SVRMs and OVRMs. He also pointed out that it was difficult to make the estimation as the PVRM Scheme was new and the demand from vehicle owners had yet to be ascertained.

60. Given the uncertain level of revenue, the high non-recurrent and recurrent costs involved, and the possible adverse impact on the income of LF, Ms Emily LAU queried the cost-effectiveness of the PVRM scheme. She did not see any merits of the proposed scheme. Mr Abraham SHEK and Mr Albert CHENG expressed similar views, and stated objection to the proposed scheme.

Conclusion

Admin

61. The Chairman concluded that members' major concerns about the PVRM Scheme were about its cost-effectiveness, its impact on the income of LF and its impact on law enforcement. Given that a majority of the members present did not support the proposed scheme, the Chairman urged the Administration to review its proposal, taking into account members' views and concerns expressed at the meeting.

62. DS(Tsy)2 assured members that the Administration would take note of their views and concerns expressed at the meeting in finalizing the bill. He also pointed out that the proposed scheme was put forward to the Panel for consultation. Members would still have the opportunity to comment on the proposal after the relevant bill had been introduced into LegCo. If a bills committee was to be formed to examine the bill, the details of the proposal could be discussed by the bills committee.

63. Mr Albert CHENG objected to the Administration's approach. He considered it inappropriate for the Administration to introduce the relevant bill into LegCo without the support of the Panel and leave the policy issues to be discussed by the bills committee.

64. Ms Emily LAU pointed out that the purpose of consultation with the relevant Panel on a legislative proposal was for the Administration to seek Members' views on the proposal before introducing the relevant bill into LegCo. As Members had expressed grave concerns and/or objection to the proposed PVRM Scheme, the Administration should review the proposal instead of pushing the bill ahead.

III. Any other business

65. There being no other business, the meeting ended at 1:00 pm.