

Panel on Financial Affairs

List of outstanding items for discussion

(Position as at 3 February 2006)

Proposed timing for discussion at Panel meeting

1. The Securities and Futures Commission Budget for the financial year 2006-07

In line with the normal practice, the Securities and Futures Commission (SFC) will present its annual budget to the Panel for information before seeking the approval of the Financial Secretary (FS) on the budget.

6 March 2006

2. New structure for listing decision-making

On 3 October 2003, the Administration published a consultation paper to invite public views on the proposals to enhance the regulation of listing. In the consultation conclusions published in March 2004, the Administration invited the SFC and the Hong Kong Exchanges and Clearing Limited (HKEx) to consider how suggestions received during the consultation process, including the composition and operation of the Listing Committee, should be pursued.

6 March 2006

In February 2005, the HKEx published a consultation paper on a new structure for listing decision-making. The proposals aimed to put in place a clearer and more efficient administrative framework for decision-making in listing matters, whilst preserving the checks and balances necessary to minimize and manage regulatory risk. The consultation paper made explicit reference to the consultation conclusions published in March 2004 inviting the SFC and the HKEx to consider suggestions concerning the composition and operation of the Listing Committee. The HKEx's consultation ended on 22 April 2005. The HKEx expected that the consultation conclusions and the final Listing Rules amendments would be published in late 2005.

Having noted a submission from Mr David Webb in May

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2005 expressing concern on the repeated extension of term limits on Listing Committee, the Chairman and Deputy Chairman of the Panel decided to invite the Administration, the SFC and the HKEx to brief the Panel on the consultation conclusions on a new structure for listing decision-making and the related Listing Rules amendments in due course.

The Administration proposes to brief the Panel in March 2006 on the Listing Rules amendments which address the issues concerning the size and composition of, as well as the subject of repeated extension of term limit on the Listing Committee.

3. Progress on the implementation of the Deposit Protection Scheme (DPS)

The Deposit Protection Scheme Ordinance was enacted in May 2004 for the establishment of a DPS in Hong Kong. The Ordinance provides for the setting up of an independent Deposit Protection Board (DPB) to assess and collect contributions from banks, and to make payments to depositors in the event of bank failures.

6 March 2006

In May 2005, the Administration provided an information paper on the progress of implementing DPS, including the formation of the DPB and the establishment of the Deposit Protection Appeals Tribunal, the development of the payout procedures and contribution systems, as well as the rules governing the operation of DPS (the Rules). According to the Administration, the banking industry has been consulted on the main principles to be incorporated into the Rules. It is expected that the Rules will be ready for tabling before LegCo for negative vetting by stages. It is expected that the DPS will be ready to start providing deposit protection in the second half of 2006.

The Administration proposes to report to the Panel in March 2006 on the progress made by the DPB on the implementation of DPS.

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4. Conflict of interest issue and other financial issues involved in and after the listing of The Link Real Estate Investment Trust

At the special meeting held on 14 December 2005, the Panel discussed with the Administration on the financial issues related to the listing of The Link Real Estate Investment Trust (The Link REIT). Members noted from the written reply of Mr Paul CHENG, the Chairman of the Board of The Link Management Limited (The Link), that due to short notice and prior commitment in China, he was unable to attend the special meeting to discuss with Members on the question of conflict of interest between his advisor role with Deutsche Bank and the role as Chairman of the Board of The Link.

3 April 2006

At the meeting held on 5 January 2006, the Panel decided that the conflict of interest issue and other financial issues involved in and after the listing of The Link REIT be further discussed at the meeting on 3 April 2006. Mr Paul CHENG and other representative of The Link, and the Administration (including representatives from the Housing, Planning and Lands Bureau and the Financial Services and the Treasury Bureau), the SFC, and the Hong Kong Exchanges and Clearing Limited have been invited to attend the meeting.

5. Briefing on the work of the Hong Kong Monetary Authority

The Chief Executive of the Hong Kong Monetary Authority (CE/HKMA) briefs the Panel on the work of HKMA on a regular basis. The briefings are normally held in February, May and November each year.

May 2006

6. Briefing by the Hong Kong Monetary Authority on the development of capital and disclosure rules to be made under the Banking (Amendment) Ordinance 2005

The Banking (Amendment) Ordinance 2005 was enacted in July 2005 to provide a legal framework for implementation of Basel II in Hong Kong (i.e. the revised capital adequacy

May 2006

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regime for authorized institutions (AIs) promulgated by the Basel Committee on Banking Supervision (BCBS) in 2004). Among other things, the Amendment Ordinance provides the HKMA with a rule making power to prescribe capital and disclosure rules on the manner of calculating AIs' capital adequacy ratio (CAR) and requirements on public disclosure of AIs' financial affairs including the CAR. These rules are subsidiary legislation subject to negative vetting by LegCo.

The HKMA proposes to brief the Panel in May 2006 on the progress of developing the capital and disclosure rules. The Administration plans to table the relevant subsidiary legislation before LegCo for negative vetting by mid-2006. The HKMA plans to implement Basel II in Hong Kong from 1 January 2007 to tie in with BCBS's timetable.

7. Briefing by the Financial Secretary on Hong Kong's latest overall economic situation

The Panel has invited the FS to brief the Panel and all other LegCo Members on macro economic issues on a periodic basis since mid-1999. The briefing is normally held in June and December each year.

June 2006

8. Proposal to write off a judgement debt

At the Panel meeting held on 6 June 2005, members were briefed on the Administration's proposal to write off the judgement debt owed to the Government by an auctioneer hired by the former Government Supplies Department to conduct commercial disposal of unserviceable or obsolete government stores and confiscated goods which was considered irrecoverable. Members expressed concerns about actions taken by the Administration to recover the outstanding payments from the auctioneer and details of the Administration's internal investigation on the case including the disciplinary proceedings taken against the involving civil servants. It was agreed that the Panel would further discuss the proposal in due course after the Administration had provided the supplementary information requested by members.

To be confirmed

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The Administration plans to further consult the Panel on its proposal to write off the judgement debt in due course and then seek the approval of the Finance Committee on the proposal.

9. Briefing on the draft Companies (Amendment) Bill 2006

The Companies (Amendment) Bill 2006 aims to enable the introduction of a scripless securities market allowing securities to be issued and transferred electronically. The Bill has been included in the Legislative Programme 2005-06 provided by the Administration in October 2005.

To be confirmed

As advised by the Administration on 24 November 2005, the SFC is considering the way forward and the corresponding legislative amendments, and will brief the Panel on the way forward in due course.

10. Consultancy study on the feasibility of establishing insurance Policyholders' Protection Funds in Hong Kong

The Administration commissioned a consultancy study on the feasibility of establishing Policyholders' Protection Funds (PPFs) in Hong Kong in late 2002 and conducted a consultation exercise from December 2003 to March 2004 to invite public views on whether and how PPFs should be introduced in Hong Kong.

To be confirmed

At the Panel meeting on 1 March 2004, members were briefed on the findings of the consultancy study and proposed PPF options. The Administration undertook to consult the Panel on the way forward after the public consultation exercise.

As advised by the Administration on 24 November 2005, the Consultant is required to produce a final report on stage 1 of the study commenting on the desirability and feasibility of introducing a Policyholders' Protection Funds scheme in Hong Kong. According to the current work progress, more time is still required for the Consultant to finalize its draft

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final report for further discussions with the Commissioner of Insurance (C of I). The Administration is monitoring the work of the Consultant and will brief the Panel once it is ready to do so.

11. Consultancy study on the supervisory framework of the assets of long term insurers in Hong Kong

In October 2003, the Administration commissioned the consultancy study to examine the effectiveness of the current supervisory framework and to assess the need for further enhancement of the current framework for the protection of policyholders in Hong Kong.

To be confirmed

As advised by the Administration on 24 November 2005, the Consultant is undertaking a detailed study of various possible options for enhancing the asset safeguarding mechanism and asset valuation framework. According to current work progress, it is expected that the Consultant could finalize a Third Report and start drafting a public consultation paper for consideration by the C of I in the next few months. The Administration is keeping in view the progress of the consultancy study and will brief the Panel once it is ready to do so.

12. New Mechanism to effect bank mergers

The Bills Committee on Citibank (Hong Kong) Limited (Merger) Bill, during scrutiny of the Bill in May 2005, examined the need for the Administration to formulate a generic legislation governing bank mergers and reorganizations in Hong Kong. The Administration noted the concern raised by the Bills Committee, and advised that the matter was being studied in consultation with the banking industry. The Administration then undertook to report the findings of the study to the Panel within the next few months. As directed by the Chairman, the Administration was invited to report the findings of its study to the Panel before the end of 2005.

To be confirmed

The Administration replied on 3 November 2005 that it had

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invited comments from relevant parties and was considering their views, and would report the findings to the Panel in due course. The Chairman then invited the Administration to provide an information paper reporting on the progress of the study including practices and experiences of overseas jurisdictions in effecting bank mergers.

On 27 January 2006, the Administration provided an information paper on “Transfer of Banking Business in Hong Kong”. The paper was issued to members on 2 February 2006 (LC Paper No. CB(1)813/05-06(01)).

13. Scheme for outsourcing summary bankruptcy cases

The purpose of the Bankruptcy (Amendment) Bill 2004 is to empower the Official Receiver to outsource debtor-petition summary bankruptcy cases to private-sector insolvency practitioners. The Bills Committee on Bankruptcy (Amendment) Bill 2004 requested the Administration to review the outsourcing scheme after implementation of the scheme. The Secretary for Financial Services and the Treasury undertook in his speech during the resumption of the Second Reading debate on the Bill at the Council meeting on 6 July 2005 that the Administration would review the outsourcing scheme 24 months after implementation of the scheme and report the outcome of the review to the LegCo.

To be confirmed

The Administration has been invited to report the outcome of the review to the Panel in due course.

14. Review of the Inland Revenue Ordinance

In response to Hon TAM Heung-man’s suggestion for the Administration to review the Inland Revenue Ordinance (IRO), five organizations/individuals have forwarded their submissions to the Panel on the subject in early 2005.

To be confirmed

In its reply dated 11 August 2005, the Financial Services and the Treasury Bureau (FSTB) advised that it had, in conjunction with the Inland Revenue Department (IRD), reviewed the issues set out in the submissions, and they would

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take the following actions:

- (a) For those issues which are tax relief proposals, FSTB will review the issues with the FS in preparing next year's budget;
- (b) For those issues which involve the interpretation of the IRO and IRD's administrative practices, IRD and the Joint Liaison Committee on Taxation (JLCT) are working together to conduct in-depth reviews on these as appropriate. The Administration believes that most of the issues have been or could be dealt with through the issuance of new or revised Departmental Interpretation and Practice Notes;
- (c) For those issues with no details given, IRD will approach the parties concerned to better understand the problems; and
- (d) FSTB has forwarded the submissions to JLCT, and will keep the Panel informed of any substantial comments from JLCT.

To facilitate members' consideration of Hon TAM Heung-man's suggestion for the Panel to discuss the above subject at a future meeting, the Administration has been invited to update the Panel in writing on the progress of the actions referred to in items (b), (c) and (d) above before the end of December 2005. Members were informed of the position vide LC Paper No. CB(1)2260/04-05 issued on 13 September 2005.

On 21 January 2006, the Administration provided a written reply with an update on the actions referred to in items (b), (c), and (d) above.

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15. Introduction of a new category of “travel insurance agents”

At the Panel meeting held on 4 July 2005, members were briefed on the Administration’s proposal to introduce a new category of “travel insurance agents” to facilitate travel agents to be registered as insurance agents for the sale of travel insurance. Members expressed reservation on whether the proposal was the best option to achieve the policy objective of encouraging Hong Kong people to take out travel insurance before they travel. The Administration was requested to give further thought to the proposal and consider how the grave concern expressed by the insurance intermediaries could be addressed.

To be confirmed

At the Panel meeting held on 5 December 2005, members were briefed on the progress of the proposal. Members noted that the insurance industry had accepted the proposal after further discussion with the Administration. The Administration was requested to report to the Panel on the implementation of the “travel insurance agents” registration system about one year after the implementation of the system, including information on the number and percentage of travel agents who have passed the “Travel Insurance Agents Examination” and registered under the system, and the Administration’s assessment of the effectiveness of the registration system and the impact of the system on the professional standards of insurance intermediaries.

16. Proposal on sale and outsourcing of the funding and administration of loans made to students

At the Panel meeting held on 5 January 2006, the Administration briefed Members on its plan to sell off the portfolio and outsource the funding and administration of non means-tested student loans to the private sector. Given the possible impact of the proposal on the students having loans under the two non-means tested loan schemes concerned, Members urged the Administration to consult the Panel on Education (Education Panel) and relevant student bodies on the proposal before reverting to the Panel.

To be confirmed

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discussion at Panel
meeting**

When the subject was discussed at the special meeting of the Education Panel held on 26 January 2006, the following motion was passed:

“本委員會反對政府將免入息審查學生貸款出售和外判予私營機構，並要求政府盡快完成檢討整個學生貸款計劃，以達至協助有需要之學生完成學業，而不至於畢業後長期負債。”

(English translation)

“That this Panel opposes the sale of the Government’s non-means-tested student loan portfolio and the outsourcing of the funding and administration of these loan schemes to the private sector, and requests that the overall review of all student loan schemes be completed expeditiously for the purpose of providing assistance to the needy students to enable them to finish their studies without having to repay debts over a prolonged period of time after graduation.”