

**LegCo Panel on Financial Affairs
Meeting on 3 April 2006**

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

List of questions previously raised by Members

The Administration, the Housing Authority (HA), the Securities and Futures Commission (SFC), The Link Management Limited (The Link) and Mr Paul CHENG are invited to provide written response to the following questions previously raised by Members:

1. Appointment of Mr Paul CHENG as a Senior Advisor to the Deutsche Bank's Asia Pacific Regional Advisory Board on 1 April 2005
 - (a) Whether Mr CHENG is remunerated for the position as the Senior Advisor to Deutsche Bank;
 - (b) According to the press statement issued by Deutsche Bank on 9 December 2005, Mr CHENG's role as the Senior Advisor "extends to providing guidance and counsel to Deutsche Bank management on the general business and commercial environment in Hong Kong and Asia; its overall business development in Asia", etc. Whether Mr CHENG's provision of guidance and counsel on the overall business development of the Bank in Asia may cover the advice on the Bank's investment strategies, including the acquisition of additional units of The Link Real Estate Investment Trust (The Link REIT) and related issues;
 - (c) If Deutsche Bank, which holds about 5.05% of the units of The Link REIT (as at early December 2005), joins with some significant unit-holders to propose replacing the Board of The Link or selling the Link REIT's assets, what position would Mr CHENG take in serving as the Senior Advisor to the Bank as well as the Chairman of the Board of Directors of The Link? Would there be any real, potential or perceived conflict of interest involved?

2. Appointment of Mr Paul CHENG as the Chairman of the Board of Directors of The Link on 1 April 2005

- (a) Mr CHENG, in his reply dated 12 December 2005 to the Panel (LC Paper No. CB(1)514/05-06(03)), indicates that he has verbally informed the HA and The Link of his advisory role with Deutsche Bank prior to accepting appointment as an independent non-executive director and Chairman of The Link on 1 April 2005. What actions have then been taken by the Administration, the HA, The Link and Mr CHENG to ensure that there is no conflict of interest involved between the two posts?
- (b) At the special meeting of the Panel on 14 December 2005, the Administration advised members that the appointment of Mr Paul CHENG as the Chairman of the Board of Directors of The Link had been made by the Board of Directors, not by the HA. In offering the appointment to Mr CHENG, has the Board of Directors taken into account his appointment as a Senior Advisor to Deutsche Bank? Given that The Link was a wholly-owned subsidiary of the HA before the listing of The Link REIT on 25 November 2005, did the Board comprise representatives of the HA at that time?

3. Non-disclosure of Mr CHENG's advisory role with Deutsche Bank in the Offering Circular in the Initial Public Offering (IPO) for The Link REIT

- (a) Mr CHENG, in his reply dated 12 December 2005 to the Panel (LC Paper No. CB(1)514/05-06(03)), indicates that “[g]iven the general and advisory nature of my role with Deutsche Bank and the focus in the Offering Circular on the requirement to disclose other directorships, we did not consider the details of my advisory position with Deutsche Bank to be material information for the purposes of disclosure in the Offering Circular at the time of its publication”. Does the word “we” refer to the Board of The Link? Did it come to such a view before or after the publication of the Offering Circular on 14 November 2005?
- (b) In connection with item (a) above, the Administration also considers that Mr CHENG's advisor role with Deutsche Bank was not material information that required disclosure in the Offering Circular (Paragraph 21 of LC Paper No. CB(1)514/05-06(01)). Did the Administration come to such a view before or after the publication of the Offering Circular on 14 November 2005? Does SFC share this view?

(c) Paragraph 8.2 of the SFC's Code on REIT (REIT Code) requires the disclosure of, inter alia, any potential conflicts of interests involving a connected person (including the management company of the scheme, its directors and senior executives/officers) in the scheme's offering document. Whether the non-disclosure of Mr CHENG's advisory role with Deutsche Bank in the Offering Circular in the IPO for The Link REIT has contravened this provision? What follow-up actions have been or will be taken by the SFC in this respect?

4. Non-disclosure of Mr CHENG's advisory role with Deutsche Bank during the meeting on 19 November 2005 to decide the pricing and allocations to investors for the Link REIT IPO

The Administration, in its paper to the Panel (Paragraph 23 of LC Paper No. CB(1)514/05-06(01)), indicates that during the meeting to decide the pricing and allocations to investors under the International Offering, Mr CHENG did not remind the meeting of his advisory role with Deutsche Bank, and that the Administration has carefully examined the matter and is satisfied that the non-declaration by Mr CHENG did not have any impact on the outcome of the allocations. However, was there any real, potential or perceived conflict of interest involved? What follow-up actions have been or will be taken by the Administration, the HA and SFC on the non-disclosure?

5. Review of disclosure requirements for significant unit-holders of The Link REIT

Under the REIT Code and the Trust Deed of The Link REIT, a person having an interest in 10% or more of all the units in issue is a "significant holder". A significant holder must notify the Trustee and the Manager of The Link REIT within three business days of acquiring such interest and of every subsequent change in unit-holding by a whole percentage point above such threshold. To enhance the transparency of "significant holding", whether the SFC and The Link would consider reducing the threshold to 5% for The Link REIT?

6. Government policy on asset divestment

Given that the Administration has remained the largest shareholder of the Mass Transit Railways Corporation Limited since the listing of the Corporation and has imposed shareholding limit on single shareholders of the Hong Kong Exchanges and Clearing Company Limited upon the listing of the Company, why similar

arrangements were not made for the divestment of the HA's retail and car-parking facilities? Does the Government have a standard policy in this respect? If not, what criteria are adopted in determining the arrangements to be made?

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