

LegCo Panel on Financial Affairs

List of follow-up actions arising from discussions in current and previous sessions
(Position as at 2 May 2006)

Subject	Date(s) of relevant meeting(s)	Follow-up actions	Outcome
1. Reinsurance cover for employee compensation insurance policies	20 December 2001	The Administration was requested to provide written reports, on a quarterly basis, on the up-to-date market situation of reinsurance coverage for terrorist activities on treaty arrangements and the Administration's assessment of the continued need for the \$10 billion facility as approved by Finance Committee on 11 January 2002.	The fifteenth quarterly report provided by the Administration was circulated to members vide LC Paper No. CB(1)1270/04-05(01) on 7 April 2006.
2. Loan Guarantee Scheme for Severe Acute Respiratory Syndrome Impacted Industries	Referred by the Finance Committee at its meeting held on 25 April 2003	The Administration undertook to report the operation of the Scheme to the Panel one year after its implementation, and to submit progress report at six month intervals thereafter.	The fifth report on the operation of the Scheme was circulated to members vide LC Paper No. CB(1)1400/05-06(01) on 2 May 2006.
3. Proposal of re-structuring the filing fees for non-Hong Kong companies	3 January 2005	The Administration was requested to report to the Panel in due course on the situation about non-Hong Kong companies' compliance with the new requirement for them to file a full annual return. The report should include, inter alia, the statistics on compliance, non-compliance and late returns,	Information awaited.

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		enforcement actions taken/to be taken (if any), and measures proposed by the Administration to improve the situation.	
4. Proposal to write off a judgement debt	6 June 2005	<p>Members considered that the Administration had not provided the Panel with sufficient information for consideration of the proposal to write off the judgement debt owed to the Government by an auctioneer hired by the former Government Supplies Department (GSD) to conduct commercial disposal of unserviceable or obsolete government stores and confiscated goods. 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, as follows:</p> <p>(a) Actions taken to recover the outstanding payments</p> <p>(i) Please confirm whether GSD had, before reaching a Deed of Settlement with the Managing Director (MD) of the auctioneer on 31 March 1999, consulted the Department of Justice (DoJ) on whether the default in proceeds payment by the auctioneer involves any criminal</p>	<p>The Administration's response awaited.</p> <p>The Administration proposes to further consult the Panel on the proposal in due course.</p>

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		<p>offence, and whether criminal proceedings should be instituted against the auctioneer or its MD. In this connection -</p> <ul style="list-style-type: none">● if GSD had consulted DoJ, please provide the advice given by DoJ;● if GSD had not consulted DoJ, please provide the reasons for having not done so. <p>(ii) Please respond to a member's views and question, as follows -</p> <ul style="list-style-type: none">● While the auctioneer had collected the auction proceeds for the Government, the proceeds were assets of the Government and not the auctioneer. Any proceeds owed by the auctioneer to the Government should be regarded as a liability of the auctioneer or its directors including its MD both under common law as well as under the Companies Ordinance, instead of a debt. In this connection, whether the auctioneer had gone into liquidation is	

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		<p>irrelevant because the Government was not its creditor;</p> <ul style="list-style-type: none">● The Government should take appropriate actions (including legal actions) to recover the proceeds, and should not seek approval to write off the sum involved unless all possible means have been exhausted;● If the MD of the auctioneer took away the proceeds, he should be held liable for the offence. The Government should pursue its tracing claim to recover the proceeds from the directors including its MD and consider whether criminal proceedings should be instituted against him; and● In this connection, if GSD had consulted DoJ on its legal rights, please provide the advice given by DoJ. If not, please provide the reasons for having not done so. <p>(iii) With the discharge of the Warrant of Arrest against the MD of the auctioneer</p>	

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		<p>in March 2004, please confirm:</p> <ul style="list-style-type: none">● whether the MD might return to Hong Kong and would be free from any liability (both criminal or civil) for the case; and● whether the Administration would conclude the case after seeking approval to write off the debt and take no further action to recover the proceeds. <p>(iv) In connection with item (iii) above, please confirm -</p> <ul style="list-style-type: none">● what other legal actions the Administration would take to recover the proceeds; and● if the MD was subsequently located in other jurisdictions, whether the Administration would make arrangement to extradite the MD back to Hong Kong. <p>(b) Internal investigation</p>	

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		<p>(i) Please provide the report of the internal investigation conducted by the Administration on the case, including –</p> <ul style="list-style-type: none">● the report(s) of the disciplinary proceedings taken against the civil servants involved in the case, including a Senior Accounting Officer, a Accounting Officer I, a Principal Supplies Officer, two Chief Supplies Officers and one Senior Supplies Officer, and the dates on which the disciplinary proceedings commenced and were concluded; and● the outcome of the investigation on the responsibilities of the senior management of the GSD in the case, in particular the responsibilities of the then Director, Deputy Director and the immediate supervisor of the Senior Accounting Officer concerned. <p>(ii) Please provide the procedures and requirements for the concerned staff to report to the senior management of GSD</p>	

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		<p>on the payment of auction proceeds during the period from 1996 to 1998 when the default happened;</p> <p>(iii) Please provide the date on which the default was brought to the attention of the senior management of GSD, and the reasons why the senior management was unable to identify the problem before then;</p> <p>(iv) Please set out the remedial actions taken by the senior management of GSD for the case since the default was brought to its attention in 1998; and</p> <p>(v) Please confirm whether the Administration considered that there were inadequacies in the senior management in handling the case.</p>	
<p>5. Progress report on proposed measures to address risks arising from securities margin financing</p>	<p>6 February 2006</p>	<p>Members noted that the proposal of imposing a 180% re-pledging limit on securities margin financing (SMF) providers and the long-term measure of complete segregation of collateral of borrowing and non-borrowing margin clients would have cost implications on SMF providers and their</p>	<p>The required information for item (a) and the interim reply for item (b) provided by the Administration was issued to members vide LC Paper No. CB(1)1023/05-06(01) on 3 March</p>

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		<p>clients. In this connection, members requested SFC to provide the following information:</p> <ul style="list-style-type: none"> (a) The number of SMF providers that were likely to be affected by the 180% re-pledging limit; (b) The impact of the long-term measure of complete segregation of collateral of borrowing and non-borrowing margin clients: <ul style="list-style-type: none"> (i) on the operating cost of SMF providers, including the respective impact on small, medium and large-sized SMF providers; and (ii) on borrowing and non-borrowing margin clients, including the likely increase in service fees paid by them. 	<p>2006. The Administration's further response on item (b) awaited.</p>
<p>6. Consultation on the new structure for listing decision-making – Composition changes to the Listing Committee</p>	<p>6 March 2006</p>	<p>The Hong Kong Exchanges and Clearing Limited (HKEx) was requested to convey to the Listing Nominating Committee (LNC) the following major concerns expressed by members of the Panel at the meeting:</p> <p><u>Existing arrangement</u></p>	<p>The Administration's response awaited.</p>

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		<p>(a) The maximum period of appointment permitted by the current Main Board Rule 2A.25 (three years for members and four years for Chairman or Deputy Chairman of the Listing Committee) had been exceeded in a number of cases, including the Chairman who had served for nine years. It gave the public the impression that the membership of the Listing Committee was restricted to a small group of persons, thus undermining the credibility of the Committee.</p> <p>(b) In connection with item (a) above, there was a lack of transparency in the nomination of members to the Listing Committee as well as factors for consideration and the exceptional circumstances under which LNC might exercise discretion for re-appointment of those members who had already served the maximum term. Such re-appointment should be avoided and more “fresh blood” should be brought in to the Listing Committee.</p> <p><u>Rule amendments</u></p> <p>(c) It did not appear to be justified to extend the maximum term for the Chairman, Deputy</p>	

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		<p>Chairman and members of the Listing Committee and the Growth Enterprise Market (GEM) Listing Committee to six years.</p> <p>(d) Previous service on the Listing Committee should be counted towards the maximum term. If the proposal in item (c) was to be implemented, those members who had remained in office for six years or more should not be re-appointed when their current term expired in May 2006.</p> <p>In connection with the above, HKEx was requested to provide the Panel with the following information after the next annual re-appointment of Listing Committee members in May 2006:</p> <p>(a) Membership of the Listing Committee;</p> <p>(b) Number of years served by the Chairman, Deputy Chairman and each member on the Listing Committee; and</p> <p>(c) If any of the members had remained in office for six years or more, the factors considered by LNC in exercising its discretion to re-appoint such members to the Listing</p>	

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		Committee.	
7. Conflict of interest issue and other financial issues involved in and after the listing of The Link Real Estate Investment Trust	3 April 2006	To address a member's concern on whether Mr Paul CHENG, Chairman of the Board of Directors of The Link Management Limited (The Link), had been involved in the preparation of the tentative lists of individual investors set out in the appendix to the discussion paper prepared by the Joint Global Coordinators (JGC) for consideration at the meeting of The Link's Board of Directors held on 19 November 2005, the Administration was requested to confirm with JGC on this issue and provide the Panel with written response. In particular, the Administration was requested to confirm with JGC on whether they had had any form of discussions with Mr Paul CHENG on the tentative lists of individual investors before tabling the lists at the meeting on 19 November 2005.	The Administration's response was circulated to members vide LC Paper No. CB(1)1352/05-06(01) on 24 April 2006.
8. Regulation of market misconduct	3 April 2006	To address members' concern about the need to review the Securities and Futures Commission (SFC)'s decisions on not taking any follow-up actions, investigations and/or enforcement actions in respect of possible breaches of the market misconduct provisions under the Securities and Futures Ordinance (Cap. 571), in particular upon receipt of complaints or referrals from the public,	The Administration's response was circulated to members vide LC Paper No. CB(1)1376/05-06(01) on 2 May 2006.

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		<p>the Administration and SFC were requested to take the following actions and provide the Panel with written response:</p> <ul style="list-style-type: none"><li data-bbox="904 485 1637 922">(a) The Administration and SFC were requested to clarify whether the Process Review Panel (PRP) had the power to review the cases which SFC had decided not to take any follow-up actions, investigations and/or enforcement actions; if it had, to provide the number of such cases reviewed by PRP since its establishment in November 2000; and if not, to provide information on which party was responsible for reviewing SFC's decisions on such cases; and<li data-bbox="904 970 1637 1409">(b) To enhance the transparency of SFC's decisions on not taking any follow-up actions, investigations and/or enforcement actions on certain cases and to ensure the impartiality and credibility of such decisions, the Administration was requested to improve the existing checks and balances mechanism by requiring all such cases be reviewed by an independent committee (e.g. PRP). In other words, the independent committee must review all such cases and did not have the	

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		<p>discretion to review cases on a selective basis; and</p> <p>(c) In connection with item (b) above, the Administration was requested to make reference to the Operations Review Committee appointed by the Chief Executive to oversee the work of the investigative arm of the Independent Commission Against Corruption.</p>	