

Panel on Financial Affairs

List of outstanding items for discussion

(Position as at 2 December 2005)

Proposed timing for discussion at Panel meeting

1. Briefing on the review of derivative warrants market

In view of recent public concerns about the risks associated with warrants trading in Hong Kong and the regulation of such trading activities, members agreed at the Panel meeting on 13 October 2005 that the Administration (including the Television and Entertainment Licensing Authority), Securities and Futures Commission (SFC) and the Hong Kong Exchanges and Clearing Limited (HKEx) should be invited to discuss the subject with the Panel. Members then noted the Administration's written replies to the two questions raised by Hon Albert CHENG on the subject in respect of the Council meeting on 19 October 2005. Members are concerned about the need for strengthening the measures for regulation of warrants trading (including regulation of media programmes on warrants trading), and measures for guarding against market manipulation and addressing potential conflict of interest.

January 2006

The SFC, after completing a review on the subject, issued a "Report on the Derivative Warrants Market in Hong Kong" on 25 November 2005, inviting market participants and interested parties to give their written comments on or before 31 January 2006. On the same day, the HKEx issued a press release indicating that it generally supported the direction of the proposals made in the report and would work closely with the SFC and the industry to further develop specific market enhancement proposals.

The Administration proposes to brief the Panel on the findings of the review of derivative warrants market in January 2006.

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2. Sale and outsourcing of the funding and administration of loans made to students

The Administration proposes to brief the Panel on its plan to sell off the portfolio and outsource the funding and administration of non means-tested student loans to the private sector.

January 2006

The proposal is part of the Administration's programme for sale and securitization of government assets. The programme aims at reducing the share of the public sector in the economy and giving more scope for the private sector to develop.

3. 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.

February 2006
May 2006

4. Briefing on the draft Mandatory Provident Fund Schemes (General) (Amendment) Regulation 2006

The Administration proposes to brief the Panel on the draft Mandatory Provident Fund Schemes (General) (Amendment) Regulation 2006, which aims at improving the existing investment regulations.

February 2006

The proposed amendment exercise will focus on amending Schedule 1 to the Mandatory Provident Fund Schemes (General) Regulation under the Mandatory Provident Fund Schemes Ordinance (Cap. 485, sub. leg. A), which governs investment of scheme funds.

The Administration plans to move a resolution at LegCo in the 2005-06 session.

5. Proposal to write off a judgement debt

Proposed timing for discussion at Panel meeting

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.

February 2006

The Administration proposes to further consult the Panel in February 2006 on its proposal to write off the judgement debt. It plans to seek the approval of the Finance Committee on the proposal on 7 April 2006.

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

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

March 2006

7. 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 HKEx to consider how suggestions received during the consultation process, including the composition and operation of the Listing Committee, should be pursued.

March 2006

In February 2005, the HKEx published a consultation paper

Proposed timing for discussion at Panel meeting

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 Rule amendments would be published in late 2005.

Having noted a submission from Mr David Webb in May 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 Rule amendments in due course.

The Administration proposes to brief the Panel in March 2006 on the progress of the consultation on a new structure for listing decision-making. The briefing will cover the subject of repeated extension of term limits on Listing Committee.

8. 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 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.

May 2006

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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.

9. 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.

June 2006

The Administration provided an information paper in May 2005 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 June 2006 on the progress made by the DPB on the implementation of DPS.

10. 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

June 2006

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and December each year.

11. Proposed measures to address risks arising from securities margin financing

At the Panel meeting held on 17 December 2004, the SFC reported on the progress of the public consultation on proposed measures to address risk arising from securities margin financing. Members noted that SFC would continue discussions with the brokerage industry to identify appropriate measures to address the risks involved. Members requested the Administration and SFC to report the progress to the Panel in a year's time (i.e. before the end of December 2005). The progress report should cover the proposed concrete timetable for achieving complete segregation of collateral of borrowing and non-borrowing clients.

To be confirmed

SFC provided a progress report on the subject for members' information on 2 December 2005 (LC Paper No. CB(1)454/05-06(01)). Members were invited to consider whether there was a need to invite SFC to discuss the subject after reviewing the progress report.

12. 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.

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13. 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 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.

14. 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

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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.

15. New Mechanism to effect bank mergers

The Bills Committee on Citibank (Hong Kong) Limited (Merger) Bill, during scrutiny of the Bill in May 2005, has examined the need for the Administration to formulate a generic legislation governing bank mergers and reorganizations in Hong Kong. The Administration has noted the concern raised by the Bills Committee, and advised that the matter is being studied in consultation with the banking industry. The Administration has then undertaken to report the findings of the study to the Panel within the next few months. As directed by the Chairman, the Administration is 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 invited comments from relevant parties and was considering their views, and would report the findings to the Panel in due course.

The Administration was invited to provide an information paper reporting on the progress of the study including practices and experiences of overseas jurisdictions in effecting bank mergers.

16. 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

To be confirmed

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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.

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

17. 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 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

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meeting**

- (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.

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