

**Panel on Financial Affairs**

**List of outstanding items for discussion**

(as at 6 June 2008)

**Proposed timing  
for discussion at  
Panel meeting**

**1. Regulation of sale of structured investment or derivative products**

At the special Panel meeting on 28 April 2008 when members received a briefing on the work of the Hong Kong Monetary Authority (HKMA), some members expressed concern about the risks involved in structured investment or derivative products such as accumulator contracts. In this connection, some members were concerned that investors had not been properly apprised of the investment risks involved in these products when such products were recommended to them by staff of the financial institutions concerned. They were also concerned about any possible conflict of interests as quite a number of banks were the issuers of such contracts.

Tentatively in  
July 2008

Members questioned the role of HKMA and the Securities and Futures Commission (SFC) in regulating new structured investment products as well as the trade practices of financial institutions in the sale of these products. They were also concerned about the work of HKMA and SFC in investor education. The Panel Chairman had proposed to discuss the subject with the Administration, HKMA and SFC within the current session.

**2. 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 public consultation exercise from December 2003 to March 2004 on whether and how PPFs should be introduced locally.

By July 2008

At the Panel meeting on 1 March 2004, members were briefed

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on major findings of the consultancy study and proposed PPF options. The Administration undertook to revert in due course on the way forward.

The Administration accepted in March 2007 the final consultancy report, the conclusion of which was that while a form of PPF scheme might work in Hong Kong, its success would depend heavily on the scope and nature as well as availability of industry and public support.

In pursuance of this, discussions have commenced with the industry on a non-statutory contingency plan bearing prescribed parameters that resembles a post-funded PPF scheme. The Administration will brief the Panel once relevant details are available.

**3. Rewrite of the Companies Ordinance**

The Administration proposes to brief the Panel on the latest progress of the exercise to rewrite the Companies Ordinance. The briefing was originally scheduled for the meeting to be held on 5 May 2008 and then deferred to the June meeting. The Administration has just advised that as the topical public consultations on several subjects of the Companies Ordinance are being conducted and preliminary feedback from the public on the various proposals would not be available until October/November 2008, it proposes that the briefing be deferred to a meeting in late 2008 so that members can be informed of the preliminary views collected in the public consultations.

Late 2008

The Administration plans to introduce the legislative proposals arising from the rewrite exercise in the 3rd quarter of 2010.

**4. Impact of banks' branch closure and fee-charging on the public**

The impact of banks' branch closure on the public was discussed at the Panel meeting on 3 July 2006. The Panel followed up the discussion of the subject as well as the concern about the impact of banks' fee-charging on the public at the Panel meeting on 2 April 2007. The Hong Kong Association

Late 2008

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of Banks (HKAB) provided a progress report in September 2007 on feasible measures to facilitate the provision of basic banking services, taking into consideration members' suggestions/views (LC Paper No. CB(1)2344/06-07).

The Panel followed up the subject with HKAB and the Administration at the Panel meeting on 5 May 2008. Members remained concern about the provision of basic banking services to the elderly and the underprivileged. In addition to requesting further information on the utilization and accessibility of non-bank channels, the Panel passed a motion urging the Administration to establish a working group for recommending improvement initiatives to cater for the needs of the underprivileged groups for banking services, and report to the Panel in six months' time.

**5. Arrangement for the Vote on Account Resolution**

The item was referred to the Panel by the Subcommittee on Proposed Resolution under Section 7(1) of the Public Finance Ordinance (Cap.2). The report issued by the Subcommittee is at LC Paper No. CB(1)981/07-08. During the scrutiny of the Vote on Account Resolution for 2008-2009, members of the Subcommittee raised concerns on the arrangement for seeking funds on account and made suggestions for improvement for the Administration's consideration. The Administration has undertook to carefully consider the views of the Subcommittee before the drafting of the Vote on Account Resolution for the 2009-2010 financial year and to consult the Panel on Financial Affairs on the proposed arrangement.

Before the end of  
the 2008-2009  
financial year

**6. Update on the work of the Financial Reporting Council**

At the Panel meeting on 8 April 2008, the Financial Reporting Council (FRC) briefed the Panel on its work progress since it has commenced full operation in July 2007. Members expressed concern about the effectiveness and transparency of the operation of FRC. The Administration/ FRC were required to review/ consider issues including the appointment of members to FRC, information disclosure on completed cases, safeguard for procedures in handling complaints and

April/ May 2009

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mechanism for declaration of interest by FRC staff. The Panel also invited FRC to update the Panel on its work progress on an annual basis.

**7. Review of the "abscondee" regime under the Bankruptcy Ordinance (Cap.6) (BO)**

In the course of deliberation, members of the Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2007 were advised by the Administration of its plan to review the "abscondee" regime (i.e. bankrupts who left Hong Kong and could not be contacted) under BO. The Administration further advised that taking into account the policy content involved in the review, and the fact that more time would be needed to study the issue and to conduct necessary research into relevant developments in other common law jurisdictions and consultations, it was not appropriate or possible to include legislative amendment proposals with respect to the "abscondee" regime as a whole in the Bill. Any proposed legislative amendments to the "abscondee" regime should be taken forward in a separate exercise.

To be followed-up in 2009

Members of the Bills Committee were concerned about the timeframe for introducing the proposed legislative amendment to the "abscondee" regime and whether public consultation would be conducted. The Bills Committee agreed that the issues should be referred to the Panel on Financial Affairs for follow up. The Administration subsequently advised that it was in the process of conducting a research on the "abscondee" regime. Depending on the results of the research in 2009, it will then be in a better position to assess the scope of necessary amendments to the BO and the likely timing to pursue such amendments.

**8. Review of the Hong Kong Monetary Authority's work on banking stability**

HKMA announced on 6 December 2007 its appointment of Mr David CARSE as consultant to conduct a review of HKMA's work on banking stability (HKMA's press release issued vide LC Paper No. CB(1)412/07-08). Mr CARSE

To be followed up in the 2008-2009 session

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has written to the Panel on 7 January 2008 seeking the Panel's views on the subject matter of the review (issued to members vide LC Paper No. CB(1)563/07-08). Having sought Panel members' comments, the Panel Chairman has issued a reply to Mr CARSE proposing that the Panel should be briefed on issues related to the review. Mr David CARSE has indicated that he will brief the Panel on his recommendations after he has finalized them and HKMA will contact the Panel in due course for the briefing arrangements (Letter from the Chairman to Mr CARSE and HKMA's reply on behalf of Mr CARSE were issued to members vide LC Paper No. CB(1)665/07-08).

**9. 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. The relevant subsidiary legislation was approved in June 2007. The commencement notice was tabled at the LegCo meeting on 17 October 2007 for the Bankruptcy (Amendment) Ordinance 2005 to take effect on 10 December 2007.

To be followed up  
in the 2008-2009  
session

The Administration was invited to report the outcome of the review on the outsourcing scheme to the Panel in due course. As advised by the Administration, it would possibly be ready to report to the Panel in the 2008-2009 legislative session.

**10. Briefing on the draft Companies (Amendment) Bill 2006**

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The Companies (Amendment) Bill 2006 aims to enable the introduction of a scripless securities market allowing securities to be issued and transferred electronically.

To be followed up in the 2008-2009 session

As advised by the Administration, the Securities and Futures Commission and the Hong Kong Exchanges and Clearing Limited are considering the best way forward regarding the implementation of a scripless securities market. The Administration advised that it may not be able to revert to the Panel within the current session.

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

In October 2003, the Administration commissioned a consultancy study to examine effectiveness of the long term asset supervisory framework and assess the need for further enhancements to protect policyholders in Hong Kong.

To be confirmed

The consultant has produced reports covering the overall study framework, review of the present asset supervisory regime, options for a long term assets valuation framework and safeguarding mechanism, public consultation strategy, etc.

Before proceeding with public consultation, the Administration researched on regulatory trends such as widespread adoption of risk based capital (RBC) regimes and a target set by the International Association of Insurance Supervisors to introduce Solvency II as a global RBC standard by 2010. Since these developments would entail a major overhaul of the present asset supervisory regime and interim measures have been put in place by the Insurance Authority to strengthen its monitoring capability, agreement was reached with the consultant to terminate the study with effect from 29 June 2007.

The Administration will monitor developments and international deliberations on the promulgation of Solvency II as a global RBC standard with a view to assessing its applicability to Hong Kong. The Administration will provide

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an information note to update Panel members on the progress of the study in due course.

**12. Review of the Trustee Ordinance**

The Administration proposes to brief the Panel on the latest progress of the review of the Trustee Ordinance for the purpose of facilitating the development of the financial services market. The Administration has just advised that the scope of the review is still being finalized. The Administration considers that it would be more appropriate to brief the FA Panel on the subject when more solid progress of the review is available.

To be confirmed

**13. The Mandatory Provident Fund Schemes Compensation Fund**

During the Scrutiny of the Mandatory Provident Fund Schemes (Amendment) (No.2) Bill 2007, some members of the Bills Committee raised concern about the mandatory contributions owed to employees if the employer companies became insolvent. A member suggested that to better protect the interest of employees, consideration might be given to extending the scope of the Mandatory Provident Fund Schemes Compensation Fund to cover default Mandatory Provident Fund contributions owed by insolvent employer companies. As the suggestion will not be pursued in the context of the Bill, members of the Bills Committee agreed to refer this to the Panel on Financial Affairs for follow-up.

To be confirmed

**14. Introduction of a new category of "travel insurance agents"**

At the Panel meeting held on 4 July 2005, members were briefed on the proposal to introduce a new category of "travel insurance agents" catering for travel agents. The Administration was asked then to consider how to address the grave concern expressed by insurance intermediaries.

To be confirmed

At the Panel meeting held on 5 December 2005, members noted that the insurance industry had accepted the proposal and

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requested for a report about one year after its implementation on the number and percentage of travel agents who have passed the qualifying examination and obtained registration, as well as on effectiveness of the registration system and its impact on professional standards among insurance intermediaries.

The new category of "travel insurance agents" was successfully introduced in May 2006 and about 2943 travel agency staff have already gone through the requisite examination as at January 2008. The progress report provided by the Administration was circulated to members vide LC Paper No. CB(1)1151/07-08 on 2 April 2008.

Council Business Division 1  
Legislative Council Secretariat  
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