

立法會
Legislative Council

LC Paper No. LS68/08-09

**Paper for the House Committee Meeting
on 8 May 2009**

**Legal Service Division Report on
Proposed Resolution under section 3 of the Loans Ordinance (Cap. 61) and
Proposed Resolution under section 29 of the Public Finance Ordinance (Cap. 2)**

The Financial Secretary (FS) has given notices that he would move the following two motions at the Legislative Council meeting on 20 May 2009 for the purpose of launching the Government Bond Programme (GBP) -

- (a) under section 29 of the Public Finance Ordinance (Cap. 2), to set up a fund (the Bond Fund) to which the sums raised under GBP will be credited; and
- (b) under section 3(1) of the Loans Ordinance (Cap. 61), to authorize the Government to borrow up to a ceiling of \$100 billion or equivalent for the purpose of the Bond Fund.

2. Members may refer to the LegCo Brief on Government Bond Programme (File ref: G6/123/5C) issued by the Financial Services and the Treasury Bureau on 28 April 2009 for background information.

3. In his 2009-10 Budget Speech, the FS announced the Government's intention to implement a programme to issue government bonds, and that the sums raised would be credited to a fund to be established under Cap. 2. The fund will not be treated as part of the fiscal reserves and will be managed separately. The primary objective of GBP is to promote the further and sustainable development of the local bond market. It will also help promote financial stability by developing an alternative channel for financial intermediation (paragraphs 2 and 3 of the LegCo Brief).

Resolution under section 29 of Cap. 2

4. Under section 29(1) of Cap. 2, the Legislative Council may by resolution provide for the establishment of funds to which moneys appropriated for the purpose and such other moneys received for the purposes of the Government as may be specified in the resolution, may be credited and from which moneys may, under the authority of a funds warrant issued by the FS, be expended for the purposes for which

the funds were established subject to such conditions, exceptions and limitations as may be specified in the resolution. Unless the resolution otherwise provides, the earnings from interest or dividends on investments of funds established under this section shall not be retained for the purposes of such funds, but shall form part of the general revenue.

5. The resolution to be moved under section 29 of Cap. 2 seeks to provide for the establishment of the Bond Fund, which is to be administered by the FS who may direct or authorize other public officers to administer the Fund and delegate the power of administration to other public officers (paragraphs (a) and (b) of the resolution). The Hong Kong Monetary Authority will be tasked to manage the Bond Fund (paragraph 8 of the LegCo Brief).

6. According to the resolution, the following are to be credited into the Bond Fund -

- (a) sums to be borrowed under section 3 of Cap. 61;
- (b) sums received by way of interest, dividends or investment income earned in respect of the sums held in the Bond Fund;
- (c) any appropriations from the general revenue that may be approved by the Legislative Council; and
- (d) any other sums that may be received for the purposes of the Bond Fund (paragraph (c) of the resolution).

7. All earnings from interest or dividends on investments of the Bond Fund are to be retained for the purposes of the Bond Fund (paragraph (d) of the resolution). The FS may transfer from the Bond Fund to the general revenue the balance held in the Bond Fund, if so approved by the Legislative Council, when all financial obligations and liabilities are met in relation to any sums that have been borrowed under section 3 of Cap. 61.

Resolution under section 3 of Cap. 61

8. Under section 3 of Cap. 61, the Government may, in such manner and on such terms and subject to such conditions as may be agreed between the Government and any person, borrow from such person such sums for such purposes as may be approved by resolution of the Legislative Council.

9. The resolution to be moved under section 3 of Cap. 61 seeks the Legislative Council to approve that the Government be authorized to borrow from any person from time to time for the purposes of the Bond Fund such sums not exceeding in total \$100 billion or equivalent, being the maximum amount of all borrowings under

that authority that may be outstanding by way of principal at any time, and that the sums borrowed are to be credited to the Bond Fund.

Consultation with LegCo

10. The Administration has provided an information paper "Government Bond Programme" (LC Paper CB(1)1469/08-09(01)) to the Panel on Financial Affairs in April 2009. At the meeting of the Panel held on 4 May 2009, members expressed the following views and concerns on the framework of GBP and the two proposed resolutions -:

- (a) The Administration's considerations and analysis for the launch of GBP, including reasons for adopting the strategy as currently proposed as opposed to the approach adopted in previous issuance exercises. In this connection, some members questioned whether the Administration would consider the possibility of issuing asset-backed securities as in the securitization exercise of "Five tunnels and one bridge" in 2004.
- (b) The Administration should provide more details of the GBP framework to facilitate members' consideration of its merits. These should include details of the proposed mechanism in executing GBP, proportion of bond issues for institutional and retail investors (as well as flexibility for increasing the proportion for retail issues in the event of strong demand from retail investors), minimum subscription amount for retail issues, estimates of the indicative yields for the government bonds and the relevant mechanism for determining the yields.
- (c) Whether this was an appropriate time for launching GBP and how retail investors could benefit from GBP given the prevailing low interest rate.
- (d) Whether the investment returns of the Bond Fund could in the end meet the financial obligations of bond issues. The Administration's assessment of the expected investment returns for the Bond Fund, and any anticipation of the worst case scenario for the shortfall of the Bond Fund in meeting the financial obligations of bond issues. There were also concerns about the investment strategy for the Bond Fund, and the appropriateness of placing the sums raised under GBP with the Exchange Fund for investment.
- (e) Additional manpower required and administrative costs incurred for implementing GBP.
- (f) Measures to improve risk disclosure in the bond issues and to enhance secondary market liquidity.
- (g) Impact of GBP on the banking sector, in particular the small and

medium-sized banks.

11. Upon the request of the Panel on Financial Affairs, the Administration has provided a supplementary information paper on GBP (LC Paper No. CB(1)1507/08-09(02)) on 7 May 2009.

12. Although the proposed resolutions do not seem to raise any difficult issues of law, the policy aspects of the proposed resolutions would involve issues of public importance. In view of the concerns raised by members of the Panel on Financial Affairs, members may wish to refer to the supplementary information paper provided by the Administration and to consider whether to form a subcommittee to examine the proposed resolutions in detail.

Prepared by

Kitty Cheng
Assistant Legal Adviser
Legislative Council Secretariat
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