

**Subcommittee on Proposed Resolutions  
under Section 29 of the Public Finance Ordinance (Cap.2)  
and Section 3 of the Loans Ordinance (Cap.61)**

**Further Response to the Issues Raised**

**Purpose**

This paper sets out the Administration's further response to the relevant issues raised by Members of the Subcommittee on Proposed Resolutions under Section 29 of the Public Finance Ordinance (Cap. 2) and Section 3 of the Loans Ordinance (Cap. 61) (the Subcommittee), including those set out in the Subcommittee's letter dated 8 June 2009. It is supplementary to our papers of 20 May 2009 and 5 June 2009.

**Incorporating the policy objective of the Government Bond Programme (GBP) into the proposed resolution under the Public Finance Ordinance**

2. With regard to some Members' request to set out the policy objective of the GBP in the proposed resolution under the Public Finance Ordinance, the Department of Justice has advised against this approach as it may give rise to uncertainty in interpretation of matters such as whether the policy objective stated can or will be achieved by the GBP, the Bond Fund or individual elements thereof. Such uncertainty is undesirable. Any litigation arising therefrom may adversely affect the smooth implementation of the GBP. This may also dampen investors' interest to invest through the GBP and hence will not be conducive to the further development of the bond market in Hong Kong.

3. We have also considered including a preamble in the resolution to specify the policy objective of the GBP, as suggested by a Member at the Subcommittee meeting on 8 June 2009. The Department of Justice has advised that as a general rule, preambles are now rare and are largely confined to statutes of constitutional significance or that ratify agreements. Given this

and the concerns explained in paragraph 2 above, we do not consider it appropriate to include a preamble in the resolution to specify the policy objective of the GBP.

4. We have already set out the policy objective of the GBP in paragraph 1 of the Explanatory Note to each of the proposed resolutions, that is “to promote the further development of the bond market in Hong Kong”. The Explanatory Note should be an aid to the construction of the resolutions. To further highlight this objective, we have proposed in our response dated 5 June 2009 to elaborate paragraph 1 of the Explanatory Note.

5. Having regard to Members’ comments on our proposed elaboration at the Subcommittee meeting on 8 June 2009, we propose to further elaborate paragraph 1 of the Explanatory Note along the following line (proposed addition in italic and bold print) –

*“This Resolution relates to the proposal in the 2009-2010 Budget to promote the further **and sustainable** development of the bond market in Hong Kong. **As mentioned in the Budget Speech, promoting the development of the bond market is important to reinforcing Hong Kong’s position as an international financial centre. This can provide more diversified investment products and avenues for financing to attract more overseas capital.**”*

### **Specifying the investment strategy to be adopted in the proposed resolution under the Public Finance Ordinance**

6. We do not consider it desirable to set out any specific investment arrangement in paragraph (e)(ii) of the proposed resolution under the Public Finance Ordinance. In view of the long-term nature of the GBP, the implementation details may need to be adjusted having regard to the changes in the market. It would be necessary to allow room for the Financial Secretary (FS) to fine-tune the specific investment arrangement under unforeseeable or exceptional circumstances, if any. Such approach is also conducive to ensuring a stable investment return for the Bond Fund. The above notwithstanding, we would like to emphasize again that we shall adopt a long term and conservative investment strategy.

7. We note that some Members have raised concern about the need to exercise prudence in determining the investment strategy and to specify the exact investment arrangement in the resolution for sake of clarity and certainty. To strike a balance between such concerns and the need to allow room for FS to fine-tune the specific investment arrangement under unforeseeable or exceptional circumstances as explained in paragraph 6 above, we propose to adjust paragraph (e)(ii) of the proposed resolution under the Public Finance Ordinance along the following line (proposed amendment in italic and bold print) -

“(ii) investing in the manner the Financial Secretary ~~may determine~~ *considers appropriate for the prudent management of the Fund*, and paying the expenses incurred in relation to the investments;”

### **Administration of the Bond Fund**

8. Paragraph (b) of the proposed resolution under the Public Finance Ordinance provides that FS is the Principal Official with the authority to administer the Bond Fund. According to the proposed framework of the GBP, FS will delegate the authority to the Financial Services and the Treasury Bureau (FSTB) to administer the Bond Fund. FSTB’s duties will include authorizing expenditure from the Bond Fund; ensuring the amount of investment return credited to the Bond Fund is in line with the “fixed rate” sharing arrangement agreed with the Hong Kong Monetary Authority (HKMA); and preparing returns on the Bond Fund for inclusion in the annual Estimates to be laid before the Legislative Council in the annual budgetary exercise.

9. In authorizing expenditure from the Bond Fund, FSTB will ensure that only the financial obligations and liabilities associated with bond issuance under the GBP are charged to the Bond Fund. Such financial obligations and liabilities include outstanding principals and interest associated with the bond issuance, expenses arising from the procurement of external services (e.g. appointment of co-arrangers to assist in managing and offering of retail bonds under the GBP), and other relevant expenses (e.g. placing fee for placing institutions involved in distributing retail bonds under the GBP). FSTB will keep a vigilant oversight of the Bond Fund. As an additional safeguard, the

Bond Fund, like other government accounts, will also be subject to the oversight of the Director of Audit under the Audit Ordinance.

10. Some Members have asked whether moneys in the Bond Fund could be transferred to the general revenue or used for purposes other than the GBP. Paragraphs (e)(i) and (e)(ii) of the proposed resolution under the Public Finance Ordinance set out the purposes for which the Bond Fund is to be established and moneys in the Bond Fund may be expended, i.e. repay principal, meet the financial obligations and liabilities associated with the loans borrowed under the GBP, and make investments. According to paragraph (g) of the proposed resolution, surplus funds, if any, in the Bond Fund may be transferred to the general revenue only after all financial obligations and liabilities are met in relation to the loans borrowed under the GBP and the Legislative Council has given the necessary approval.

### **Implementation of the GBP**

11. According to the proposed framework of the GBP, FS will direct the HKMA (a) to assist the Government in coordinating the offering of the bonds under the GBP, which includes performing certain functions of an arranger; and (b) to manage the investment of moneys in the Bond Fund which is placed with the Exchange Fund and provide an investment income for the Bond Fund on the basis of the “fixed rate” sharing arrangement applicable to the fiscal reserves. Such arrangements will cover, inter alia, the duties of the HKMA in preparing and coordinating the offerings of bonds under the GBP and managing the investment of moneys in the Bond Fund. Such duties will include –

- (a) proposing the timing, size and pricing of individual bond issues under the GBP;
- (b) proposing appropriate structure for the offerings of bonds (e.g. Primary Dealers and Recognized Dealers for the offerings of bonds to institutional investors, and co-arrangers and placing institutions for the offerings of bonds to retail investors) and assisting in the implementation of the arrangements in this regard;
- (c) preparing legal and offering documentation, listing applications and

other documents necessary for the offering of bonds;

- (d) assisting in coordinating, managing and executing all processes relating to the tender application, subscription and allotment of bonds;
- (e) arranging for the issuance and redemption of bonds;
- (f) providing for the clearing, settlement and custody of bonds and other ancillary arrangements necessary for the offering of the bonds; and
- (g) managing the investment of moneys in the Bond Fund which is placed with the Exchange Fund and providing an investment income for the Bond Fund on the basis of the “fixed rate” sharing arrangement applicable to the fiscal reserves

12. We will put in place suitable arrangements for overseeing the implementation of the GBP. In addition, we will set up a mechanism for tapping market views on an on-going basis so that we could take into account such views in implementing the GBP.

Financial Services and the Treasury Bureau  
15 June 2009