

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

Response to Proposed Amendments

Purpose

This paper sets out the Administration's response to amendments to the proposed resolution under the Public Finance Ordinance (Cap. 2) suggested by two Members and a non-Member 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") and forwarded to us by the Subcommittee on 17 June 2009.

Adding paragraph (aa) in the proposed resolution under Cap. 2 to specify the policy objective, and deleting "the purposes of -" in paragraph (e)

2. Hon Albert HO, Hon KAM Nai-wai¹ and Hon James TO have suggested adding a new paragraph (aa), after paragraph (a) of the proposed resolution under Cap. 2, as follows -

“(aa) The purpose of the establishment of the Bond Fund is to promote the further and sustainable development of the local bond market.”

3. We note that the proposed addition actually refers to the establishment of the Bond Fund. It does not reflect the Government's policy objective as mentioned in the Financial Secretary (FS)'s Budget Speech. It is the purpose of the Government Bond Programme (GBP), rather than the establishment of the Bond Fund, to promote the further and sustainable development of the bond market in Hong Kong.

¹ Hon KAM Nai-wai is not a Member of the Subcommittee.

4. As explained in our paper dated 15 June 2009 to the Subcommittee, we do not consider it advisable to set out the policy objective of the GBP in the proposed resolution 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.

5. 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. As proposed in our response dated 15 June 2009 to the Subcommittee, to further highlight this objective, we propose to elaborate paragraph 1 of the Explanatory Note to each of the proposed resolutions 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.**”*

6. Hon Albert HO and Hon James TO have also suggested deleting “the purposes of -” in paragraph (e) of the proposed resolution -

~~“(e) the Financial Secretary may expend money from the Fund for the purposes of – ”~~

7. We do not consider the suggested deletion appropriate. Pursuant to section 29(1) of Cap. 2, paragraphs (e)(i) and (e)(ii) in the proposed resolution under Cap. 2 set out the purposes for which the Bond Fund is to be established and moneys in the Bond Fund may be expended. Such approach in reflecting

the purposes of the Bond Fund is in line with that in other resolutions for establishment of funds under section 29(1) of Cap. 2.

Adding a provision on the setting up of the Bond Fund Consultation Committee in paragraph (b) of the proposed resolution under Cap. 2

8. Hon Albert HO has suggested adding the following provision (in italic and bold print) at the end of paragraph (b) of the proposed resolution under Cap. 2 -

*“(b) the Fund is to be administered by the Financial Secretary, who may direct or authorize other public officers to administer the Fund and delegate the power of administration to other public officers. **The Financial Secretary may often consult the Bond Fund Consultation Committee. The Committee is made up of seven persons. The Financial Secretary is the Chairman of the Committee, other members are to be appointed by the Financial Secretary, and at least two persons elected by the Members of the Legislative Council from among their own number for recommending to Financial Secretary for appointing as committee members;**”*

9. From the above-suggested addition, it is not clear about the functions of the proposed Bond Fund Consultation Committee. In any event, we do not consider it necessary to set up such a committee for overseeing the administration of the Bond Fund. As mentioned in our response dated 15 June 2009 to the Subcommittee, 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; 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. The process will be subject to the scrutiny of the Legislature.

10. 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.

Specifying the investment arrangement in paragraph (e)(ii) of the proposed resolution under Cap. 2

11. Hon Albert HO and Hon James TO have suggested the following amendment to paragraph (e)(ii) of the proposed resolution under Cap. 2 (suggested amendment in italic and bold print) -

“(ii) investing in the manner the Financial Secretary may determine injecting into the Exchange Fund for investment in a prudent manner, and paying the expenses incurred in relation to the investments;”

12. As explained in our response dated 15 June 2009 to the Subcommittee, we do not consider it desirable to set out any specific investment arrangement in paragraph (e)(ii) of the proposed resolution under Cap. 2. In view of the long-term nature of the GBP, the implementation details may need to be adjusted having regard to market changes. It would be necessary to allow room for 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.

13. We appreciate Members’ concern about the need to exercise prudence in determining the investment strategy. To strike a balance between such concern and the need to allow room for FS to fine-tune the specific investment arrangement under unforeseeable or exceptional circumstances as explained

above, we propose to adjust paragraph (e)(ii) of the proposed resolution under Cap.2 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;”

General observations

14. In studying the above amendments suggested by Hon Albert HO, Hon KAM Nai-wai and Hon James TO, we note that those amendments duplicate to different extent.

Financial Services and the Treasury Bureau
18 June 2009