

**立法會**  
**Legislative Council**

LC Paper No. CB(1)857/08-09  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/FA/1

**Panel on Financial Affairs**

**Minutes of meeting**  
**held on Monday, 5 January 2009 at 9:30 am**  
**in the Chamber of the Legislative Council Building**

**Members present** : Hon CHAN Kam-lam, SBS, JP (Chairman)  
Hon Ronny TONG Ka-wah, SC (Deputy Chairman)  
Hon Albert HO Chun-yan  
Dr Hon David LI Kwok-po, GBM, GBS, JP  
Hon James TO Kun-sun  
Dr Hon Philip WONG Yu-hong, GBS  
Hon Emily LAU Wai-hing, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Vincent FANG kang, SBS, JP  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon WONG Ting-kwong, BBS  
Hon CHIM Pui-chung  
Hon KAM Nai-wai, MH  
Hon Starry LEE Wai-king  
Hon Paul CHAN Mo-po, MH, JP  
Hon CHAN Kin-por, JP  
Hon Tanya CHAN  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP

**Member absent** : Hon Andrew LEUNG Kwan-yuen, SBS, JP

**Public officers attending** : Agenda Item IV

Mr CHENG Yan-chee, JP  
Deputy Secretary for Financial Services and the Treasury  
(Financial Services)

Mr Arthur YUEN, JP  
Executive Director (External)  
Hong Kong Monetary Authority

Ms Linda TSE  
Senior Manager (External)  
Hong Kong Monetary Authority

Agenda item V

Mr Edward Thomas O'CONNELL  
Official Receiver

Mr HO Tin-ching  
Chief Treasury Accountant (Financial Services)  
Official Receiver's Office

Ms Selene TSOI  
Principal Assistant Secretary for Financial Services and  
the Treasury (Financial Services)

Agenda item VI

Mr FUNG Hing-wang  
Commissioner for Census and Statistics

Miss CHAN Ka-lin  
Assistant Commissioner for Census and Statistics (Social)

Ms Jenny CHAN  
Principal Assistant Secretary for Financial Services and  
the Treasury (Financial Services)

**Attendance by invitation** : Agenda item VII

Mr David T R CARSE

**Clerk in attendance:** Ms Rosalind MA  
Chief Council Secretary (1)5

**Staff in attendance :** Mr Noel SUNG  
Senior Council Secretary (1)4

Miss Haley CHEUNG  
Legislative Assistant (1)8

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Action

**I Confirmation of minutes of meeting and matters arising**

(LC Paper No. CB(1)497/08-09 — Minutes of meeting on  
21 November 2008)

The minutes of the meeting held on 21 November 2008 were confirmed.

**II Information papers issued since the last meeting**

(LC Paper No. CB(1)511/08-09(01) — Hon KAM Nai-wai's letter dated  
17 December 2008 expressing  
concern on the business practices of  
authorized institutions in relation to  
credit cards

LC Paper No. CB(1)511/08-09(02) — Administration/the Hong Kong  
Monetary Authority's response to  
Hon KAM Nai-wai's concerns)

2. Members noted the information papers issued since the last meeting.

Request for information

3. In relation to Mr KAM Nai-wai's concern about the regulation of credit card business and measures to protect the interest of credit card customers, Ms Emily LAU expressed concern about the drastic increases in fees and charges of banking services and requested to discuss the issue at the Panel. The Chairman said that the issue could be included in the list of outstanding discussion items for the Panel. Ms Emily LAU requested that the Administration be asked to provide a written response to her concerns.

*(Post-meeting note: The information provided by the Administration/the Hong Kong Monetary Authority on fees and charges for banking services was circulated to members vide LC Paper No. CB(1)688/08-09 on 29 January 2009.)*

### III Date of next meeting and items for discussion

(LC Paper No. CB(1)487/08-09(01) — List of outstanding items for discussion

LC Paper No. CB(1)487/08-09(02) — List of follow-up actions)

#### Meeting on 2 February 2009

4. Members agreed that the following items should be discussed at the meeting scheduled for 2 February 2009:

- (a) Briefing on the work of the Hong Kong Monetary Authority; and
- (b) Review of the Companies Ordinance.

#### Briefing by the Financial Secretary on Hong Kong's latest overall economic situation

5. The Chairman informed the meeting that as advised by the Financial Secretary (FS)'s Office, FS would be out of Hong Kong in the first half of June 2009 and unable to give a briefing to the Panel at the regular meeting scheduled for 1 June 2009. The FS's Office therefore proposed that the briefing be postponed to the Panel meeting on 6 July 2009. The Deputy Chairman expressed concern that as the Panel meeting in July was close to the summer recess of the Legislative Council, the Panel might not be able to take timely follow-up actions on issues arising from the briefing. The Chairman noted the concern and suggested that special meetings could be arranged during the summer recess should members wish to follow up any urgent matters arising from the briefing. Members agreed that the briefing be postponed to the Panel meeting to be held on 6 July 2009.

### IV Asian Development Bank – Hong Kong's contribution to the 9<sup>th</sup> replenishment of the Asian Development Fund (ADF X)

(A2/5C — Legislative Council Brief on Asian Development Bank – Hong Kong's contribution to the 9th replenishment of the Asian Development Fund

LC Paper No. CB(1)486/08-09 — Background brief on Hong Kong's contribution to the 9th replenishment of the Asian Development Fund prepared by the Legislative Council Secretariat)

### Briefing by the Administration

6. The Deputy Secretary for Financial Services and the Treasury (Financial Services) (DS(FS)) briefed members on the proposed contribution of US\$26.25 million (about HK\$206.08 million) to the 9<sup>th</sup> replenishment of the Asian Development Fund (or ADF X) of the Asian Development Bank (ADB) over a nine-year period. DS(FS) stated that ADF, established in 1973, was a concessionary lending window of ADB available to the most needy members in the Asia and Pacific region to support poverty reduction and improve the quality of life. During the period from 1972 to 1980, Hong Kong had obtained five loans totaling US\$101.5 million from ADB, which were used to finance the construction of public housing, sewage, and infrastructure projects. All loans were repaid in full by 1987. Hong Kong had been a donor of ADF since 1983 and Hong Kong's continued contribution to ADF would be a clear demonstration of its commitment towards ADB and poverty reduction efforts in the region. Subject to views of Panel members, the Administration planned to submit the funding proposal to the Finance Committee for consideration at the meeting on 13 February 2009.

### Discussion

#### *Amount of Hong Kong's contribution to ADF*

7. Mr Jeffrey LAM supported Hong Kong's contribution to ADF to help the most needy members in the Asia and Pacific region. He believed that in the long run, Hong Kong would benefit from the economic development of member countries in the region. Mr LAM enquired the percentage of Hong Kong's share in financing ADF X and how the amount of Hong Kong's contribution was determined.

8. In reply, the Executive Director (External), Hong Kong Monetary Authority (ED(E)/HKMA) explained that Hong Kong's contribution to ADF X was determined on the basis of the consensus burden sharing formula adopted since the 6<sup>th</sup> replenishment of ADF in 1997. The burden sharing formula was worked out based on a member's per capita Gross National Product (which reflected the member's financial strength) and adjusted for its shareholding in ADB. According to the formula, Hong Kong's burden sharing ratio was 0.57% of the target donors' contribution size, which translated into US\$26.25 million for Hong Kong's contribution to ADF X.

9. Mr Jeffrey LAM asked the eligibility and assessment criteria for processing applications for ADF resources. In reply, ED(E)/HKMA said that to become eligible for ADF resources, a developing member country should have an average per capita Gross National Income of US\$1,065 or below. In assessing loan applications, ADB would take into consideration factors such as the economic condition of the borrowing countries and their fund raising ability in the financial market.

10. Mr Jeffrey LAM enquired about changes in other donors' contributions over the past replenishments, if any. Mr Paul CHAN expressed similar concern and asked why Singapore's contribution to ADF X was much lower than that of Hong Kong. In response, ED(E)/HKMA advised that contributions to ADF were on a voluntary basis. Some members like Japan would choose to make contributions exceeding the amount derived from the burden sharing formula. As for Singapore, it had chosen to make contributions of amounts smaller than that derived from the burden sharing formula.

11. Noting that ADF resources were allocated to member countries in the form of loans and these countries should make repayments regularly, Mr CHAN Kin-por asked why donors were required to make substantial contributions to ADF every four to five years. Mr CHAN also enquired whether and when Hong Kong would get back its past contributions from ADB.

12. ED(E)/HKMA advised that ADF was established in 1973 and the repayment period for ADB loans could be as long as 40 years. Given the increase in demand for assistance, the size of ADF lending operations had enlarged in the past years and the funds recovered from loan repayments were insufficient to meet the increased demand. ED(E)/HKMA said that unless a donor ceased to be a member of ADB, the contributions would not be returned to the donor before ADB realized its vision of an Asian-Pacific region free of poverty when no member countries were in need of ADB assistance.

*Performance of ADB sponsored projects and participation of Hong Kong firms in these projects*

13. Mr Albert HO said that Members belonging to the Democratic Party supported the funding proposal as Hong Kong, being a member of ADB, had the obligation to contribute to ADF for poverty reduction. Mr HO was nevertheless concerned about the effective use of ADF resources and asked the mechanism in place for monitoring and evaluating the performance of ADB sponsored projects. Ms Emily LAU and Mr Paul CHAN shared Mr HO's concern. Ms LAU asked whether Hong Kong had previously made any suggestions to improve the monitoring and evaluation of ADB sponsored projects.

14. ED(E)/HKMA advised that a well-established mechanism was in place to assess and review the performance of ADF programmes. There was an independent department under the ADB Board of Directors to assess the effectiveness of ADF programmes, through monitoring the implementation of ADB sponsored projects to ensure the effective use of resources. In addition, the management of ADB would conduct interim reviews of the projects and the evaluation results would be made available to the Board of Directors as well as donors. Follow-up actions were taken by the ADB management to improve the effectiveness of the sponsored projects. All donors including Hong Kong monitored the evaluations closely and would be informed of the follow-up actions taken.

15. Mr Albert HO was concerned about the impact of inefficiencies and corruption in some developing countries on the effective use of ADF resources. In reply, ED(E)/HKMA advised that in allocating ADF resources to eligible countries, ADB would take into consideration the level of probity in these countries and their past performance in the effective use of ADF resources. Responding to Mr HO's further enquiry, ED(E)/HKMA said that the default rate (i.e. overdue for more than six months) of ADF loan repayment was relatively low, at around 2%. At the request of Mr Paul CHAN, the Administration/HKMA would provide further information on the mechanism for monitoring and evaluating ADB's operations and the performance of ADB sponsored projects.

16. Mr WONG Ting-kwong and Mr Paul CHAN enquired about measures to facilitate the participation of Hong Kong firms and professionals in ADB sponsored projects. Mr CHAN opined that the Government should liaise with the relevant professional bodies and/or trade organizations to devise measures in this regard.

17. ED(E)/HKMA said that through Hong Kong's contribution to ADF, firms in Hong Kong might gain additional scores when they bid for ADB sponsored projects. To facilitate Hong Kong firms and professionals to participate in and benefit from ADB sponsored projects, the Administration had worked in collaboration with the Hong Kong Trade Development Council (TDC) to improve the dissemination of information on these projects through various means such as providing hyperlinks to ADB through the TDC website. Interested Hong Kong firms could access latest information on the tendering of ADB sponsored projects through the Internet. Seminars were also arranged to facilitate understanding of Hong Kong firms of the ADB sponsored projects.

#### *Hong Kong's representation at ADB*

18. Noting that Hong Kong was represented by the Australian Director in the Board of Directors of ADB, Mr WONG Ting-kwong was concerned when Hong Kong could represent its own interests at the Board. Mr Paul CHAN and Ms Emily LAU were also concerned about the participation of Hong Kong in ADB matters. Ms LAU questioned whether the views of Hong Kong would be heard in the decision-making process of ADB, particularly in respect of the effective allocation and use of ADF resources. Mr CHAN opined that the Government should examine the level of representation of Hong Kong at ADB for the benefit and protection of its rights.

19. In response, ED(E)/HKMA pointed out that there were only 12 members in the Board of Directors while the total number of ADB members was over 60. Under the current governance structure of ADB, each member of the Board represented one constituency. Each constituency included one or a number of members. The Director acted on behalf of the interests of the members in the same constituency. Given the small percentage of Hong Kong's shareholding in ADB (which ranked only 25<sup>th</sup> among the ADB members), it was unlikely for Hong Kong to have its own constituency and Director on the Board. On the participation of Hong Kong in the

work of ADB, ED(E)/HKMA said that Hong Kong monitored the performance of ADB programmes through the Australian Director. A Hong Kong officer was attached to the office of the Australian Director to assist in the work. HKMA had assigned staff to oversee ADB matters, including reviewing the evaluation reports provided by ADB and putting forward views and suggestions to ADB through the Australian Director. Moreover, ED(E)/HKMA pointed out that Hong Kong was represented directly in the Board of Governors, to which each of the 67 ADB members nominated one Governor and an Alternate Governor. The Financial Secretary was the Governor and the Chief Executive of HKMA was the Alternate Governor for Hong Kong.

20. In response to Mr Paul CHAN's enquiry on the representation of the People's Republic of China (PRC) at the ADB Board of Directors, ED(E)/HKMA said that PRC was one of the 12 members of the Board. Miss Tanya CHAN asked whether changes would be made to the arrangements for Hong Kong's representation at the ADB Board of Directors so as to enhance its participation in the management of ADB. The Chairman commented that as Hong Kong had been part of China after the return of sovereignty, consideration might be given to discussing with the Central Government the appropriate arrangements for Hong Kong's participation in the management of ADB.

21. The Deputy Chairman pointed out that under Article 151 of the Basic Law, Hong Kong might on its own, use the name "Hong Kong, China", to maintain and develop relations and conclude and implement agreements with foreign states and regions and relevant international organizations in the appropriate fields. As Hong Kong had been a member of ADB well before 1997, the Deputy Chairman said that Members belonging to the Civic Party supported Hong Kong's continued participation in ADB as an independent member, and made contributions to ADF as part of its obligations as a member, irrespective of whether Hong Kong would benefit from the contributions.

22. ED(E)/HKMA said that Hong Kong had been a member of ADB years before the return of sovereignty and the current arrangement for Hong Kong to be represented through the Australian Director had been in place for long. At present, there was no plan to change this arrangement. At the request of Mr Paul CHAN, the Administration/HKMA agreed to provide further information on the governance structure of ADB after the meeting.

*(Post-meeting note: The information provided by the Administration/HKMA as requested in paragraphs 15 and 22 above was issued to members vide LC Paper No. CB(1)679/08-09(01) on 23 January 2009.)*

**V Downgrading of an Assistant Director of Accounting Services post to a Chief Treasury Accountant post in the Official Receiver's Office**

(LC Paper No. CB(1)487/08-09(03) — Administration's paper on downgrading of an Assistant Director of Accounting Services post to a Chief Treasury Accountant post in the Official Receiver's Office)

23. The Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) briefed members on the proposed downgrading of an Assistant Director of Accounting Services (D2) post to a Chief Treasury Accountant (D1) post in the Official Receiver's Office (ORO). The proposed downgrading would bring about net savings in full annual staff cost, including salaries and on-costs, which amounted to \$181,512. The proposal would take immediate effect upon approval by the Finance Committee.

24. Mrs Regina IP asked whether the ranking of the head of the Financial Services Division (FSD) of ORO was proposed to be downgraded as a result of the drop in liquidation cases, or the reduction in workload of FSD after the outsourcing of the administration of liquidation cases to private-sector insolvency practitioners. Mrs IP was concerned that if the number of liquidation and bankruptcy cases increased as a result of the recent economic downturn, the Government might have to upgrade the post later.

25. In response, the Official Receiver said that the Assistant Director of Accounting Services post in FSD had been frozen since December 2004 and a supernumerary post of Chief Treasury Accountant had been created to head the division. With the enactment of the Bankruptcy (Amendment) Ordinance 2005 in July 2005, and other consequential legislative amendments, a pilot scheme for the outsourcing of summary bankruptcy cases was launched in May 2008. Having considered the current and future operational needs of FSD, ORO considered it appropriate for the head to be a directorate accounting professional at the Chief Treasury Accountant rank on a long-term basis. ORO did not foresee the need to upgrade the rank of the FSD head even if there was an increase in the number of liquidation and bankruptcy cases in the future.

**VI Plan for the 2011 Population Census**

(LC Paper No. CB(1)487/08-09(04) — Administration's paper on plan for the 2011 population census

LC Paper No. CB(1)527/08-09(01) — Administration's paper on Plan for the 2011 Population Census

(power-point presentation materials))

### Briefing by the Administration

26. At the invitation of the Chairman, the Commissioner for Census and Statistics (C for C&S) briefed the meeting, through a powerpoint presentation, on the background and planning for the 2011 population census (11C). C for C&S stated that population censuses had been conducted at 10-year intervals since 1961, and by-censuses were carried out in the middle of the intercensal period. The aim of conducting population censuses/by-censuses was to obtain up-to-date benchmark information on the socio-economic characteristics of the population and on its geographical distribution. Such information was vital to the Government for planning and policy formulation, and important to private sector and academia for business and research purposes. C for C&S highlighted the proposed approach for conducting 11C, as follows:

- (a) The sampling fraction of the detailed enumeration (the long form) in 11C would be reduced from one-seventh in the 2001 Population Census (01C) to one-tenth of the population after extensive research and in light of the proven experience of conducting the 2006 Population By-census. This would help reduce resources requirements and achieve cost effectiveness given the projection of a 15% increase in the number of households between 2001 and 2011.
- (b) A multi-modal data collection approach would be adopted, introducing electronic means for both the simple enumeration (the short form) and the long form and postal return for the short form, in addition to conventional face-to-face interviews.
- (c) The data collection period would last for 45 days (from 19 June 2011 to 2 August 2011) with the first stage allowing self-enumeration by the households through postal returns or the Internet. Data collection through face-to-face interviews would be undertaken in the second stage which would fall into the school summer holidays. This would avoid disruption to schools and facilitate recruitment of temporary field workers (mostly teachers and students as in the past censuses/by-censuses). The Administration planned to promote self-enumeration in the first stage of the data collection period (tentatively 27 days from 19 June 2011 to 15 July 2011), whereas the more costly face-to-face interviews would be arranged at the second stage for the remaining households (tentatively 18 days from 16 July 2011 to 2 August 2011).
- (d) A total of 41 data topics were proposed having regard to the views received from consultations with government bureaux/departments, prominent organizations, relevant faculties/departments in academic

institutions, and the major factors of consideration set out in paragraph 14 of the Administration's paper.

- (e) The feasibility study for the supporting computer systems and web applications would be completed in early 2009 and the Finance Committee's approval would be sought in mid 2009 for an allocation of about \$87 million for procurement of the relevant computer equipment and services for the 11C.

## Discussion

### *Sampling scheme*

27. Noting that the sampling fraction of long forms would be reduced from one-seventh of the population in the 01C to one-tenth in the 11C, Mr James TO asked about the sampling practices in population censuses conducted by other places.

28. C for C&S advised that the sampling fraction of long form in Korea was also one-tenth. While both Canada and Singapore adopted the fraction of one-fifth, the fraction adopted by the United States was one-sixth. The fraction adopted would hinge on the extent of variation in population characteristics and the details required for data analysis. According to the experience of conducting the 2006 Population By-census, a sampling fraction of one-tenth of the population could provide the required precision for supporting relevant statistical inference and analysis.

29. Ms Emily LAU asked the reason for projecting a 15% increase in the number of households between 2001 and 2011, despite a relatively stable population growth of only a few percent over the period. In response, C for C&S advised that the number of households was on the rise mainly due to the increasing trend towards the formation of small families, with adult or married second generation living apart from their parents. The average number of members in a household in 2001 was 3.1 but was expected to reduce to 2.9 in 2011.

### *Data collection approach*

30. Noting that data would be collected by self-enumeration through the Internet in the 11C, Mr James TO was concerned about the reliability of the returns. He asked whether the Administration had made any analysis on the reliability of data collected through electronic means compared with those collected through face-to-face interviews.

31. In response, C for C&S said that data collection through electronic means was generally more successful in advanced economies with wide usage of computers. This convenient means of data collection had its operational constraints in that supporting computer systems and applications would be required to deal with complicated questions. For the short form involving a few simple questions on basic

demographic characteristics, electronic means was considered appropriate. As for the long form which was more complicated, Internet submission rate might not be very high. Even in advanced countries like Canada, only about 10% to 20% of the households could complete self-enumeration through electronic means. The experience of the 2006 Population By-census indicated that only about 2% of the sampled households completed the e-questionnaire through the Internet.

32. Ms Emily LAU was concerned that the most convenient and cost-effective mode of data collection should be used for the population censuses, and opined that telephone interview could be one option. In response, C for C&S explained that the Census and Statistics Department (C&SD) did not have ready information of the telephone numbers of all households. Moreover, in conducting visits to the households, opportunity was taken to update the Register of Quarters, i.e. the list of addresses of permanent quarters in built-up areas. The number and complexity of questions in the long form might also make it difficult for enumerators to complete the interview over the telephone. Responding to Ms Emily LAU's further enquiry on her experience of responding to surveys like the survey on information technology usage and penetration through telephone interview, C for C&S said that telephone interviews would be conducted for surveys in which not many questions were involved.

#### *Data topics*

33. Mr James TO asked whether the 11C could provide information on Hong Kong residents, notably those who were registered voters, but having resided/stayed mostly in places outside Hong Kong. He said that such information might help the analysis of voter behaviour, such as the number of voters residing outside Hong Kong who returned for voting.

34. In reply, C for C&S said that population censuses were not appropriate vehicle to collect information from Hong Kong permanent residents not residing/staying in Hong Kong, as they might not be reached during the data collection period. He added that in determining whether a person should be counted into the Hong Kong resident population and thus be enumerated in the population census, information on the duration of residence in Hong Kong during the past and the coming six months of the reference time point would be collected from individual members of the households. This statistical definition based on duration of residence in the reference period had been adopted for the conduct of population censuses since the 2001 Population Census and was considered appropriate in view of the high mobility of the Hong Kong population.

35. Ms Emily LAU expressed concern about the data topics covered in the 11C and urged the Administration to collect more information on the underprivileged, such as people living in poverty, new arrivals, ethnic minorities, sexual minorities and people with disabilities (PwDs).

36. C for C&S said that in past population censuses/by-censuses, thematic reports on the socio-economic characteristics of different population sub-groups had been prepared. For example, thematic reports on persons from the Mainland having resided in Hong Kong for less than seven years, single parents, ethnic minorities and household income distribution had been published after the 2006 By-census. For topics like disabilities and sexual orientations, there were practical reasons for not including them in population censuses, given the sensitivity of the topics and hence the demand on interviewing skills. As the temporary field workers recruited for these large scale exercises were students, they would have difficulty of acquiring sophisticated interviewing skills from basic training. C for C&S advised that to collect information on specific population sub-groups, C&SD would conduct surveys on special topics. For example, a Special Topic Report was published on 22 December 2008 on findings of a survey on people with disabilities and chronic diseases. A survey on the same topic was last conducted in 2000.

37. Ms Emily LAU enquired about the standard practices adopted by the United Nations in the collection of sensitive information during population censuses, such as information on PwDs and the sexual minorities. She was of the view that data collection for sensitive topics should be practicable through adopting good international practices.

38. In response, C for C&S reiterated that information on sensitive topics such as PwDs should better be collected through surveys on special topics instead of during population censuses, as collection of such information would require skillful enumerators with full training. This was in line with the international practices. Nevertheless, in some places where limited resources were available for conducting separate surveys on special topics, data collection covering more complicated and sensitive topics might have to be arranged in population censuses.

39. Noting that 41 data topics would be covered in the 11C, Mrs Regina IP asked whether information on the following topics on Hong Kong residents would be collected: elderly Hong Kong residents staying in the Mainland; and Hong Kong residents working, getting married and raising their families in the Mainland. Mrs IP opined that it might be possible for the enumerators to collect the information on these residents through their family members residing in Hong Kong. She was of the view that the information on elderly Hong Kong residents would facilitate the formulation of policies and measures to meet the needs of the elderly. Mr James TO shared Mrs IP's concern and asked whether information on children born in Hong Kong to Mainland parents would also be collected in the 11C.

40. C for C&S said that data relating to movement of people to and from the Mainland for work, study and retirement would be collected through the Population Census if the individuals concerned or their family members had a regular residence in Hong Kong and they were present to provide the information during household visits. However, people who normally resided outside Hong Kong would be categorized as non-Hong Kong residents for statistical purpose. Responding to Mrs Regina IP's enquiry about the topics on internal migration characteristics, C for C&S

advised that information on the characteristics of internal mobility of Hong Kong population would be collected under these topics, such as people moving among different districts or from a new town to an urban area in the same district.

41. As to Mr James TO's concern about information on children born in Hong Kong to Mainland parents, C for C&S advised that C&SD staff had conducted the first round of survey in 2007 through interviewing these parents at the Births Registries to gather information on their plans for the newborns to reside and/or study in Hong Kong. The second round of survey had just commenced to gather the latest information on the plans of Mainland parents for their newborns. C for C&S stressed that relevant information on the population of Hong Kong would be collected through various surveys on special topics. He pointed out that the huge scale population censuses aimed to provide benchmark data for studying the direction and trend of population changes, and the cost of the exercise would inevitably be increased if too many data topics were included.

## **VII Review of Hong Kong Monetary Authority's work on banking stability**

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| (LC Paper No. CB(1)447/08-09    | — Mr David CARSE's report on review of the Hong Kong Monetary Authority's work on banking stability   |
| LC Paper No. CB(1)487/08-09(05) | — Powerpoint presentation material provided by Mr David CARSE on review of the Hong Kong Monetary Authority's work on banking stability (tabled at the meeting and softcopy issued after the meeting) |
| LC Paper No. CB(1)526/08-09(01) | — Speaking note of Mr David CARSE regarding review of Hong Kong Monetary Authority's work on banking stability (tabled at the meeting and issued on 6 January 2009) (English version only)            |

### Briefing by the consultant of the Hong Kong Monetary Authority

42. Mr David CARSE, the consultant commissioned by the Hong Kong Monetary Authority (HKMA) for the review of HKMA's work on banking stability, briefed the Panel on his report through a powerpoint presentation. Mr CARSE highlighted the following points in the briefing:

- (a) The review was conducted through reading external publications and internal documents of HKMA and material published by other regulators. Interviews were conducted with external stakeholders of HKMA, and written contributions were received from the Hong Kong Association of Banks and the Deposit Taking Companies Association.
- (b) A number of trends and issues which would affect the development of the Hong Kong banking system over the coming years were identified in the review. Among these, the following three issues were highlighted in the briefing: dealing with the impact of the global financial crisis, managing the growing economic integration with the Mainland and effective regulatory cooperation within Hong Kong, in particular between HKMA and the Securities and Futures Commission (SFC).
- (c) Recommendations were made on governance issues relevant to HKMA's role in banking stability; the Monetary Authority (MA)'s functions and powers in the Banking Ordinance (BO) (Cap. 155); the supervisory framework for the banking sector; HKMA's policy framework; authorization of institutions carrying on banking or deposit-taking business; and the safety net arrangements.
- (d) The overall conclusion of the review was that "no fundamental deficiencies in the regulatory and supervisory framework or processes had been identified. But a number of enhancements could be made which would provide an even sounder foundation to cope with the challenges ahead".

## Discussion

### *Attendance of public officers for the briefing*

43. The Deputy Chairman expressed regret that the Administration did not send any representative to exchange views with members on the review report. Mr Albert HO and Mr James TO shared the Deputy Chairman's concern and expressed disappointment that no representatives from the Financial Services and the Treasury Bureau or HKMA had attended the meeting to receive views and/or respond to questions from members. Mr TO was of the view that this demonstrated that the Administration had not attached importance to the views of Members of the Legislative Council (LegCo) in the review.

### *Scope of the review*

44. Pointing out that the review report was completed before the outbreak of the global financial tsunami in September 2008, Ms Emily LAU expressed grave concern about the applicability of the recommendations therein to the prevailing

circumstances faced by Hong Kong's banking system. Ms LAU asked whether further review should be conducted to address issues facing Hong Kong arising from the latest global financial problems, such as problems in the existing regulatory regime for the securities industry. Mr Abraham SHEK expressed similar concern and asked whether the regulatory system should be reviewed further to cope with the new and upcoming challenges posed by the global financial crisis.

45. In response, Mr David CARSE stated that while the review was conducted before the full effects of the sub-prime crisis had come about since September 2008, the recommendations in the report were still relevant. Apart from immediate "fire-fighting" measures to cope with the crisis, e.g. enhancement of the liquidity of the banks, on-going measures to improve the supervisory policies and risk assessment for the financial institutions contained in the review report were relevant. In this connection, Mr CARSE advised that one of his recommendations on the supervisory policies for HKMA was to review the current liquidity regime, in particular the need to revamp the current statutory minimum liquidity ratio for banks, to ensure that it was a proper measure of high quality liquidity. Mr CARSE also referred to paragraph 28 of his report and pointed out that the sub-prime crisis in the United States (US) had highlighted the risks in complex financial instruments, and the fact that these risks were not fully understood not only by investors but also by those manufacturing and selling the products. He had recommended HKMA to step up its supervision of the sale of complex financial products through getting information of such products available in the market and evaluating the exposure of banks and their customers to these products. Mr CARSE said that instead of a fundamental revamp of HKMA's policy framework, HKMA should make continuous progress in filling the remaining gaps in the framework, including developing its supervisory policies in line with the recommendations of the Basel Committee and the Financial Stability Forum.

46. Responding to Ms Emily LAU's further enquiry on measures to assist the small and medium-sized enterprises (SMEs) facing the problem of credit-tightening in the banking sector, Mr CARSE said that this was a problem worldwide as banks were concerned about the uncertain market conditions and became reluctant to lend. Apart from the extension of loan guarantee scheme by the Government to encourage lending to SMEs, Mr CARSE said that he did not have other suggestions to tackle the problem.

#### *Regulatory regime for financial services*

47. Referring to the problems in the supervision of the sale of structured financial products by HKMA and SFC revealed in the Lehman Minibonds incident, Ms Emily LAU questioned why Mr CARSE did not consider the review of the regulatory functions of HKMA and SFC a matter of immediate priority.

48. Mr David CARSE advised that he had suggested in his report that the relationship between HKMA and SFC to be reviewed and their respective roles and approach be clarified. Such a review was being conducted in the wake of the

Lehman Minibonds incident, and reports had been prepared by HKMA and SFC in this regard. The issue of whether there should be a more fundamental change in the regulatory structure in Hong Kong through the introduction of some form of unified regulatory body was nevertheless not considered one of immediate priority in his report. Mr CARSE pointed out that while there were merits in a single-regulator regime, any move towards a more integrated regulatory structure should not be rushed into, as considerable time would be required to examine the details such as the model to be adopted for the regime and the relationship between the regulator and other parts of the financial system.

49. The Deputy Chairman referred to the motion passed at the Council meeting on 26 November 2008 urging the Government to conduct a comprehensive review and study of the existing financial regulators to ascertain if there was any need to rationalize and improve their regulatory roles, functions and resources in the regulation of the financial sector. He sought the advice of Mr CARSE as to whether regulation of non-core banking business should be put under a unified regulatory body for financial services, in line with the global practice, and that HKMA should only assume the role of a central bank to oversee monetary and banking stability.

50. Mr David CARSE said that while the introduction of a single regulator might be a possible way forward for Hong Kong, considerable debate on the appropriate model for the single-regulator regime and the transition to the new regime would take time. Referring to the current single-regulator model in the United Kingdom (UK), Mr CARSE pointed out that there were questions about the effectiveness of the model under which banking supervision and financial stability were separately under the purviews of the single regulator (i.e. the Financial Services Authority (FSA)) and the central bank (i.e. the Bank of England). The single-regulator model adopted by Singapore did not prove itself successful in avoiding problems in the regulation of sale of financial products given the impact of the Lehman Minibonds incident on Singapore. Pointing out that an overhaul of the regulatory regime would not be desirable in the face of the current financial turmoil, Mr CARSE advised that the issue of whether all regulatory functions should be put under one single body would better be examined in the longer term, and he therefore recommended that priority should be given to sorting out the relationship between HKMA and SFC in financial regulation in the short term.

51. The Deputy Chairman was of the view that discussions and study of a change in the regulatory regime should start as early as possible, and invited Mr CARSE to give advice on the timing for starting the work. In response, Mr CARSE referred to his experience of working for a single financial regulator in Jersey, and advised that a long lead time would be required for the setting up and full operation of a single regulator, as the legislative amendments involved for the transition to a single-regulator regime could take years to complete. Mr CARSE commented that it would be a matter for the Government and the Subcommittee of the LegCo to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products to consider as to whether a fundamental change of the regulatory structure should be given a higher priority for study.

52. Mr Abraham SHEK asked whether Mr David CARSE would recommend Hong Kong to adopt a single-regulator model similar to that in the UK, i.e. with a single regulator like FSA. In reply, Mr David CARSE said that the regulatory model in the UK, which was a tripartite model with the Bank of England and FSA undertaking the roles of maintaining stability of the financial system and supervising financial institutions, and the Treasury acting as the coordinator, did not perform particularly well in the recent crisis in the UK banking system. Mr CARSE stressed that any change to the existing regulatory structure should be put in place after detailed study.

53. Mr Albert HO opined that the regulation of the securities industry by two regulators, i.e. HKMA and SFC, had been a subject of the industry's concern. He asked Mr CARSE's view on the propriety of this arrangement. Mr HO opined that the problems in the sale of structured financial products revealed in the Lehman Minibonds incident had given rise to concern about the effectiveness of HKMA's supervision of the securities business of banks as well as the propriety of the regulation of the securities industry by two regulators. Mr James TO expressed similar concern. Mr TO questioned the consistency in the supervisory approach of SFC and HKMA, and doubted whether HKMA would conduct surprise inspections on the securities business of banks.

54. Mr David CARSE said that having two regulators for the same industry under the existing system did not intrinsically create regulatory gaps. HKMA had in place established framework for banking supervision, including specialized teams to monitor and examine the operation of banks, and guidelines for banking practices, covering conduct of securities business. He had therefore recommended in his report that the existing regulatory system be maintained with enhancements to minimize regulatory inconsistencies and overlaps. Mr CARSE said that he would not object to the idea for HKMA to conduct more surprise inspections on banks. He pointed out that as factors attributing to the problems relating to the sale of Lehman Minibonds had yet to be identified and examined, changes to the existing regulatory regime should be considered in the longer term.

55. Referring to Page 9 of the powerpoint presentation materials about Mr CARSE's recommendation for HKMA to fill the remaining gaps in the policy framework, Mr Paul CHAN asked what were these gaps, and the priority of dealing with them.

56. Mr David CARSE responded that as he had pointed out in the report, HKMA had an extensive set of policies that largely complied with the revised Basel Core Principles for Effective Banking supervision. He had highlighted a number of regulatory gaps to be filled in the policy framework, including supervisory guidelines on counterparty credit risk, management of market risk and derivatives, and a consolidated guideline on anti-money laundering and counter terrorist financing, of which continued progress should be made. At the request of Mr Paul CHAN, Mr CARSE undertook to provide information regarding the different

models of a single-regulator regime for the regulation of all financial services, setting out the merits and demerits of each model as well as the differences in the legal backing required, if any, for the implementation of different models, and his opinion on the best option for Hong Kong's regulatory regime.

*(Post-meeting Note: The information provided by Mr CARSE was circulated to members vide LC Paper No. CB(1)679/08-09(02) on 23 January 2009.)*

57. Mr KAM Nai-wai noted with concern the recommendation in paragraph 92 of the report that the powers of investigation of the MA under BO should be extended so that they were no less than those available to SFC. In response, Mr David CARSE explained that he had set out in the report the differences in the powers of investigation of MA under BO and the Securities and Futures Ordinance (SFO) (Cap. 571) in relation to banking matters. Similar consideration would apply to replicating in BO the powers of investigation of SFC under section 182 of SFO. Mr CARSE pointed out that the recommendation was put forward for the sake of consistency.

#### *Consumer protection and safety net arrangements*

58. Noting from paragraph 75 of the report that “An undue focus on consumer issues could result in a loss of focus on the ultimate objective of consumer protection, which is to reduce the risk that banks failed”, Mr KAM Nai-wai asked whether the primary regulatory objective of HKMA was to prevent bank failures, even if the banks concerned had involved in malpractices in business operation. In this connection, Mr KAM expressed grave concern that, in addition to banking and deposit services, banks were selling high risk structured financial products to their customers, whom might not be fully aware of the risks in such investments. He pointed out that in many countries, better consumer protection was in place through measures such as clear distinctions between services provided by retail banks and investment banks.

59. In response, Mr David CARSE said that while he appreciated the importance of consumer protection, it was pivotal that every effort should be made to prevent bank failures for the ultimate protection of depositors' interests. In the experience of FSA in the UK, there had been criticisms about its over-emphasis on consumer protection. While HKMA was already engaged in a number of consumer protection activities, Mr CARSE had reservation about the Consumer Council's proposal to confer statutory responsibility on HKMA for consumer protection, as HKMA's main responsibility under BO was to ensure that authorized institutions were financially sound and prudently managed. Mr CARSE further pointed out that Hong Kong would be backtracking from the global trend if retail banks were prohibited from selling financial products, as there was an accelerating trend for investment banks to disappear in the global market.

60. Mr James TO appreciated the importance of maintaining banking stability through ensuring the financial soundness and prudent management of banks. He nevertheless queried whether and in what ways FSA's emphasis on consumer protection had jeopardized banking stability, and whether there was any real conflict between the two goals. Mr TO was concerned that if HKMA continued to put its focus of supervision on prudential issues, banks would be allowed to sell high-risk structured financial products to their customers for profit-making.

61. Mr David CARSE responded that he did not imply in his report that HKMA as a prudential regulator should not be concerned about issues that would affect confidence in the banking system. He said that if a large number of bank customers were sold high-risk financial products without being fully aware of the risks involved, HKMA as the regulator should be concerned and take actions to deal with the matter. Nevertheless, he had highlighted in his report what had actually happened in the UK that, at a point when the regulator had to determine the allocation of resources for various issues of concern, FSA had announced that it would shift its priorities more in the direction of prudential issues having regard to the supervisory failings in relation to the Northern Rock case. Mr CARSE had highlighted in his report that in considering the role of HKMA in consumer protection, there was a balance to be struck in the priorities accorded to prudential issues and consumer protection issues.

62. Referring to the power of HKMA and SFC to investigate into the misconduct of banks and to impose sanctions, Mrs Regina IP asked whether reference would be made to the US practice to give the regulators the powers to order compensation from and impose civil penalties on the banks. Mrs Regina IP opined that in enhancing the powers of investigation and sanction of HKMA and SFC, recommendations of the International Monetary Fund, and the latest international trend should be taken into account in order to improve the regulatory regime for the financial sector.

63. In response, Mr David CARSE said that the recommendations of relevant international organizations would certainly be taken into account in making enhancements to the regulatory regime in Hong Kong. Mr CARSE pointed out that if regulatory bodies were vested with the powers to order compensations, they would likely be dragged into long legal battles with financial institutions over compensation issues, and might have to use considerable resources for the proceedings. Citing his experience in Jersey as an example, the regulatory authority might come into a compromise agreement with the financial institution concerned, instead of ordering compensation through litigation. Another alternative was for the regulatory authority to seek a court order of restitution. Mr CARSE opined that a banking/financial services ombudsman, as suggested in his report, should be a viable option to deal with compensation issues.

64. Mr KAM Nai-wai agreed with Mr CARSE's recommendation in the report for the need of a banking/financial services ombudsman to deal with disputes between banks and their customers. He believed that with the establishment of a

banking/financial services ombudsman, aggrieved customers would no longer need to appeal to different regulatory authorities/tribunals to seek redress/compensation like in the case of holders of the Lehman Minibonds. He enquired about the role and functions of this proposed ombudsman.

65. Mr David CARSE said that as proposed in his report, consideration should be given to establishing a banking/financial services ombudsman, who would receive complaints from the public, act as an arbitrator in disputes between banks and their customers, and award compensation. Disputes between banks and customers like those in the Lehman Minibonds incident could be dealt with by such an ombudsman. One of the major issues to be resolved was whether the ombudsman scheme should be funded by the Government or the industry.

66. Mrs Regina IP expressed concern about the scope of the safety net arrangement under the temporary full deposit protection, as it did not cover all types of deposits. For example, saving accounts with overdraft facilities or with standing instructions for auto-payments were not protected under the existing arrangement. Mrs IP was also concerned that while small banks and deposit-taking companies might take advantage of the full deposit protection to attract more deposits and expand their business, these business entities might face liquidity problem when customers withdrew their money upon the lifting of the temporary full deposit protection arrangement in 2010. She enquired about the deposit protection arrangements in other jurisdictions.

67. In response, Mr David CARSE said that the Deposit Protection Scheme aimed to protect the net deposits of bank customers after discounting any loans/liabilities they owed to the banks, and to generate confidence in the banking system so as to avoid bank runs. Following the Northern Rock incident, the UK Government has proposed that the deposit insurance scheme should cover the full deposit without netting off the liabilities of the customers to the banks, but such an arrangement had cost implications, and might not be fair to all creditors. Mr CARSE opined that, before the temporary full deposit protection arrangement lapsed in 2010, the Administration should ensure that an appropriate deposit protection scheme would be in place, with reasonable level and clear scope of protection, including whether only the net deposits would be covered. As regards Mrs Regina IP's concern about the business risk of small banks, Mr CARSE pointed out that HKMA had recognized that risk and had issued formal guidelines to banks setting out how it would be monitoring appropriate use of the deposit guarantee to ensure prudent risk management by banks.

*Business integration with the Mainland*

68. Noting Mr CARSE's recommendation that part of HKMA's cooperation with the China Banking Regulatory Commission (CBRC) should be to try to harmonize regulatory policies and practices in order to produce a level playing field on both sides of the border and to reduce the risk of regulatory arbitrage, Mr Paul CHAN asked what regulatory arbitrage had been identified regarding the operation of Hong Kong banks in the Mainland, and the priority areas for cooperation between the regulatory authorities of Hong Kong and the Mainland.

69. In response, Mr David CARSE said that there were a number of areas where cooperation between HKMA and CBRC could be enhanced. With the growing scale of operation of banks on the Mainland, HKMA had to make considerable effort to work with CBRC in order to harmonize regulatory policies and practices, and to ensure that banks which had complied with the regulatory requirements of CBRC would be of comparable standard as those operating in Hong Kong in term of financial soundness and prudent management.

*Merger of banks*

70. Mr Albert HO was concerned that under the existing legislative procedures, bank mergers were done through the passage of private Members' bills, despite that LegCo Members might not be in a position to assess in full the impact of the proposed mergers on the stakeholders, such as the depositors. Mr HO was of the view that reference should be made to arrangements in overseas jurisdictions to enact legislation for the general legislative framework for bank mergers, so that future merger proposals would be subject to the decision of the court rather than the legislature. In response, Mr David CARSE appreciated the concern of LegCo Members about enacting bills on bank mergers given the technical nature of these bills. Mr CARSE considered Mr HO's proposal for providing legislative framework for bank mergers a good idea which could be further examined.

*Turnover of supervisory staff*

71. Given the high turnover of supervisory staff in HKMA, Mr Abraham SHEK asked whether, in Mr CARSE's opinion, the existing staff of HKMA possessed the necessary calibre and competence to maintain high quality regulatory work of HKMA. In response, Mr David CARSE said that HKMA had employed staff of high calibre. It was his observation that there had been high turnover of staff at the junior/middle levels in some divisions of HKMA which made HKMA's supervisory task more difficult. He therefore recommended in his report that HKMA should implement measures to manage turnover among its supervisory staff.

72. The Chairman asked whether the recommendation of providing a long-term incentive programme to ameliorate the turnover of HKMA supervisory staff would

still be valid, in view of the recent economic downturn and the increased manpower supply in the financial sector. In reply, Mr David CARSE agreed with the Chairman's comment that there would likely be an increase in manpower supply under the economic downturn. Nevertheless, HKMA might need to recruit more supervisory staff to enhance its supervisory work and it should continue to take necessary steps to manage the turnover of supervisory staff.

### **VIII Any other business**

#### Regular meeting in March

73. The Chairman advised that he would be out of Hong Kong in the first week of March and unable to attend the regular meeting originally scheduled for 2 March 2009. The Chairman suggested and members agreed that the regular meeting in March be advanced to late February. Members would be informed of the date of the regular meeting in due course.

*(Post-meeting note: With the concurrence of the Chairman, the regular meeting in March was re-scheduled to Thursday, 26 February 2009 at 4:30 pm. Members were informed of the meeting date vide LC Paper No. CB(1)530/08-09 on 6 January 2009.)*

74. There being no other business, the meeting ended at 12:40 pm.

Council Business Division 1  
Legislative Council Secretariat  
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