

立法會
Legislative Council

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by the Administration)

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Panel on Financial Affairs

**Minutes of special meeting
held on Thursday, 18 June 2009 at 11:30 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
 - Hon James TO Kun-sun
 - Dr Hon Philip WONG Yu-hong, GBS
 - Hon Emily LAU Wai-hing, JP
 - Hon Jeffrey LAM Kin-fung, SBS, JP
 - Hon Andrew LEUNG Kwan-yuen, 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 attending** : Hon LEE Wing-tat
- Members absent** :
- Dr Hon David LI Kwok-po, GBM, GBS, JP
 - Hon Abraham SHEK Lai-him, SBS, JP
 - Hon Vincent FANG kang, SBS, JP

- Public officers attending** : Agenda item I
 Mr John TSANG, JP
 Financial Secretary
 Mr Freely CHENG
 Administrative Assistant to Financial Secretary
- Clerk in attendance** : Ms Rosalind MA
 Chief Council Secretary (1)5
- Staff in attendance** : Mr Noel SUNG
 Senior Council Secretary (1)4
 Ms Haley CHEUNG
 Legislative Assistant (1)8

Action

I Arrangement for the appointment of the Monetary Authority

- (LC Paper No. CB(1)1923/08-09(01) —Administration's paper on background of the appointment of Chief Executive of the Hong Kong Monetary Authority
- LC Paper No. CB(1)1922/08-09 —Background brief on arrangement for the appointment of the Monetary Authority prepared by the Legislative Council Secretariat
- FS15/07-08 —Paper on appointment and tenure of office of the Monetary Authority in Hong Kong and the heads of central banks in selected places prepared by the Research and Library Services Division of the Legislative Council Secretariat)

Information on relevant issues raised at the special meeting of the Panel on Financial Affairs held on 21 May 2009

(LC Paper No. CB(1)1946/08-09(01) —List of follow-up actions for the special meeting

LC Paper No. CB(1)1946/08-09(02) —Administration's written response to Item 3 of the list of follow-up actions)

Briefing by the Administration

At the invitation of the Chairman, the Financial Secretary (FS) briefed the meeting on the background of the appointment of the Chief Executive of the Hong Kong Monetary Authority (CE/HKMA). Under section 5A(1) of the Exchange Fund Ordinance (Cap. 66) (EFO), FS should appoint a person to be the Monetary Authority (MA) on such terms and conditions as he thought fit. FS assured members that in appointing MA, he would act in a fair and impartial manner according to law, and would ensure that the appointee was fit and proper and that the appointment was in the best interests of Hong Kong. In order to exercise and perform the powers and duties conferred on him by section 5A(1) of EFO effectively and to ensure selection of a suitable candidate as the next CE/HKMA, FS had earlier invited three highly regarded persons, Dr Victor FUNG, Dr Marvin CHEUNG and Sir John BOND, to make recommendations to him. He had also invited Mr Martin TANG, a retired human resources consultant, to assist in the recruitment work. All of them accepted the invitation in their personal capacity and had provided assistance free of charge. Referring to the concerns of Members and the public regarding the procedures and the terms and conditions of appointment of CE/HKMA, FS advised that open recruitment of governors of central banks was not a common international practice at present. FS also advised that the appointment procedures had reached the final stage. Upon completion of the procedures, the name of the successor of CE/HKMA would be announced and the relevant details would be provided.

Discussion

2. Pointing out the importance of the post of CE/HKMA, Mr Andrew LEUNG enquired about the qualifications, calibre and experience required for the post, and the criteria adopted by the three-member selection team and FS in the recruitment exercise. Ms Starry LEE shared Mr LEUNG's concern and asked which credential was considered as the most important for the post. Ms LEE opined that given the close ties between the financial markets in Hong Kong and the Mainland, CE/HKMA should be familiar with the operation and conditions of the Mainland financial market. Mr LEUNG was also of the view that the proposal of identifying candidates for the post through an open

and global recruitment might not be appropriate, as the post-holder would have access to highly confidential and sensitive information and strong commitment to protecting the interests of Hong Kong would be a prerequisite, especially during times when Hong Kong's financial market was facing challenges from overseas hedge funds or corporate snipers.

3. FS advised that a suitable candidate for the post of CE/HKMA should have the capability to oversee the various areas of HKMA's work set out in the Administration's paper. The candidate should also have profound experience in the management of sizable organizations and familiar with the operation of the global, Mainland and local financial markets. The candidate should also have the commitment to the maintenance and development of the status of Hong Kong as an international financial centre. In addition to the above criteria, the candidate had to meet the basic requirement of a permanent Hong Kong resident of Chinese nationality.

4. Mr James TO and Miss Tanya CHAN expressed concern about the timing when FS invited the three-member selection team to recommend to him suitable candidates for the post of CE/HKMA. Miss CHAN was also concerned about the terms of reference of and the selection criteria adopted by the team. Noting from FS's advice that the selection team had completed its work at the end of 2008, Mr TO expressed grave concern that if the team was formed a few months before that, it would be somewhat around the time when Hong Kong was facing the challenges of the outbreak of the once-in-a-century global financial tsunami. He questioned whether FS's decision to replace the incumbent CE/HKMA during such a crisis was in the best interests of Hong Kong. He was of the view that FS should address public skepticism that the decision was the Administration's move to replace the incumbent CE/HKMA by its favoured person. Mr TO was also concerned about the terms and conditions of employment for the next CE/HKMA, including the tenure of office and remuneration, as details of the appointment arrangement had not been disclosed.

5. FS stressed that in appointing the next CE/HKMA, he would act according to law and had all along attached great importance to ensuring that the appointment was in the best interests of Hong Kong. To facilitate the selection of the suitable candidate, FS had invited the three highly regarded individuals to make recommendations to him. On the concern about timing of starting the appointment procedures, FS said that the procedures had already reached the final stage and details of the appointment would be announced upon completion of the procedures.

6. While appreciating the involvement of a dedicated selection team for the identification of potential candidates for the post of CE/HKMA, Ms Starry LEE enquired about the work of the team, such as the number of candidates it had contacted. Miss Tanya CHAN raised similar query. Ms LEE was also

concerned about disclosure of information on the tenure of office, the remuneration package and the timing of announcement of the appointment of the new CE/HKMA.

7. FS recapped that the selection team had completed its work and make recommendations to him around the end of 2008. He would take into consideration the concerns of Members and the public regarding the tenure and remuneration package for CE/HKMA under the existing legal framework, and would disclose the details when the appointment of the new CE/HKMA was announced upon completion of the appointment procedures.

8. Referring to FS's remark that he would act according to law in the appointment of CE/HKMA, Mr Albert HO opined that the remark, taken together with FS's refusal to disclose details about the selection criteria and terms and conditions of appointment for the post, had given the public an impression that FS would make full use of his power under EFO in the appointment. Mr HO questioned the rationale of keeping confidential details of the appointment before completion of the procedures, and opined that the Administration should be accountable to the public in the appointment of such an important post. He was of the view that non-disclosure of information on the selection criteria and terms and conditions of appointment might invite public skepticisms that the arrangements were tailor-made for a pre-determined candidate. The public could hardly be convinced of the fairness of such non-transparent appointment procedures. Mr HO asked whether FS would furnish further information on the appointment to the Panel in addition to that provided in the paper.

9. FS explained that he had to act according to law in the appointment of the new CE/HKMA, which was the first time he exercised the power conferred to him under EFO for the appointment. He stressed that he acted in a fair and impartial manner in the appointment and would give due consideration to the views of Members and the public in this regard. Given the sensitivity involved in human resources matters, FS considered the current arrangement appropriate. Details of the appointment arrangement would be disclosed upon completion of the procedures.

10. Ms Emily LAU was disappointed with the confusion over the appointment procedures for the new CE/HKMA. Referring to previous speculations over the departure of the incumbent CE/HKMA, Ms LAU opined that these had resulted from the absence of a piece of legislation to provide for the appointment of senior executives of HKMA, including the tenure of office, retirement age and remuneration packages. She pointed out that despite repeated concerns raised by Members and the public, the Administration had not put in place a reasonable, accountable and transparent mechanism to govern the appointment arrangement and terms and conditions of employment of senior executives of HKMA. Ms LAU requested FS to respond to public calls

for institutionalizing the appointment of senior executives of HKMA, notably CE/HKMA, so as to provide for a fixed tenure of office, reasonable level of remuneration and accountability to a statutory board of directors. The Deputy Chairman expressed similar view. He suggested that the Administration formulate a proposal to institutionalize the appointment mechanism for the post of CE/HKMA and seek the Panel's view on the proposal.

11. Mr LEE Wing-tat pointed out that the public was dissatisfied with the high remuneration packages of the senior executives of HKMA, notably CE/HKMA. He opined that there was a large pool of talents among which the Administration could select the suitable candidate, and it was not necessary to offer exceptionally high remuneration package to attract talents for the appointment of CE/HKMA. Mr LEE urged the Administration to ensure fairness in the process of selecting the new CE/HKMA to upkeep its credibility and address public skepticisms about the appointment of a pre-determined candidate.

12. The Deputy Chairman opined that in exercising the power under EFO for the appointment of CE/HKMA, FS should ensure transparency and accountability of the procedures. He believed that the participation of the Legislative Council (LegCo) and the public in the process would not undermine the power of FS. There was no transparency in the current appointment procedures of CE/HKMA in that no details would be disclosed before completion of the procedures. In this connection, the Deputy Chairman asked the Administration to make reference to practices of overseas economies in the appointment of the governors of central banks, in which the congress or the parliament would be involved in the selection and/or endorsement of the appointment.

13. FS said that he would take into consideration the views of Members and the public and decide on the appointment of CE/HKMA under the existing legal framework. He reiterated that he would act in a fair, impartial manner according to law in appointing CE/HKMA. Pointing out that different appointment mechanisms were adopted in overseas economies according to their unique circumstances, FS considered the current mechanism and legal framework for the appointment of CE/HKMA appropriate. In response to the Chairman's enquiry on review of the appointment mechanism, FS said that the Administration would take heed of the views of the Panel on the subject where appropriate if the appointment arrangement for the post of CE/HKMA was reviewed in future.

14. While appreciating that FS would act according to law in the appointment of CE/HKMA, Mrs Regina IP was concerned about the absence of an objective appointment mechanism. She pointed out that the absence of a fixed tenure of office of CE/HKMA had given rise to speculations over the move of the incumbent CE/HKMA in the past, which was not conducive to the

credibility of the Government. She called on the Administration to take forward this problem seriously and work out a formal mechanism for appointment of CE/HKMA. Mrs IP also asked the Administration to provide comparison of overseas practices for the appointment of the heads of central banks, including the tenure of office, the governing legislation/protocol, the appointment criteria/procedures and the remuneration packages.

15. FS advised that the existing legislation governing the appointment of CE/HKMA, including the determination of the terms and conditions of employment, was considered appropriate and no change was required at the present stage. As this was the first recruitment of a new CE/HKMA, the procedures could be further studied after completion of the current exercise. As to Mrs IP's request for information, FS referred members to the fact sheet prepared by the LegCo Secretariat on the appointment and tenure of office of MA in Hong Kong and the heads of overseas central banks, and agreed to examine whether the Administration could provide any supplementary information in this regard.

(Post-meeting note: As advised by the Administration, having examined the information provided in the fact sheet and Mrs Regina IP's request, it had nothing to add to the appointment and tenure of office of the heads of overseas central banks.)

16. Noting FS's advice that details would be announced upon completion of the appointment procedures for the new CE/HKMA, Mr Paul CHAN requested that the announcement should cover information on the following:

- (a) qualifications and experience required;
- (b) appointment procedures and mechanism, including consideration of the need for review and/or improvement, having regard to overseas practices of appointment of heads of central banks;
- (c) tenure of office and restrictions on re-appointment after expiry of the tenure, if any;
- (d) consideration on the remuneration package, having regard to the suggestion of setting aside part of the Variable Pay to provide an end of tenure gratuity; and
- (e) sanitization arrangements on post-termination employment.

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(1)2335/08-09 on 20 July 2009.)

17. Mr CHAN Kin-por commented that as it was the first time a recruitment exercise was conducted for the appointment of CE/HKMA, the Administration should take into consideration the international practice, and examine the appointment mechanism upon the completion of the exercise, including the selection criteria, tenure of office, remuneration package etc., with a view to enhancing the transparency of the appointment and addressing public concern in this regard.

18. The Chairman stated that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong were of the view that the Administration should take heed of public concerns about the arrangement for the appointment of CE/HKMA, as highlighted during the adjournment debate and the question raised at the Council meeting on 3 June 2009. He called on the Administration to provide details of the appointment when making announcement of the new CE/HKMA. The Administration should also consider studying the proposal of institutionalizing the appointment arrangement after completion of the current exercise with a view to improving the arrangement. While Members had sounded out their expectations on the appointment mechanism, the Chairman opined that they could also put forward concrete proposals in relation to matters such as tenure of office and remuneration package for the Administration's consideration.

19. Mr WONG Ting-kwong opined that the post of CE/HKMA was an important one comparable to the senior posts set out in Article 101 of the Basic Law. He was of the view that there should be a fixed tenure of office for the post. Mr WONG called on the Administration to exercise prudence in taking forward this first recruitment exercise for the post of CE/HKMA, having full regard of the concerns expressed by the LegCo and the public on the subject, before making public announcement of the result and the details of the appointment arrangement.

20. FS thanked Members for the views and suggestions. He assured Members that these would be taken into consideration in the appointment of CE/HKMA.

II Any other business

21. There being no other business, the meeting ended at 12:34 pm.