

**立法會**  
**Legislative Council**

LC Paper No. CB(2)524/08-09  
(These minutes have been seen  
by the Administration)

Ref : CB2/PL/SE

**Panel on Security**

**Minutes of special meeting  
held on Tuesday, 21 October 2008, at 4:30 pm  
in the Chamber of the Legislative Council Building**

- Members present** : Hon LAU Kong-wah, JP (Chairman)  
Hon James TO Kun-sun (Deputy Chairman)  
Hon Albert HO Chun-yan  
Dr Hon Margaret NG  
Hon Emily LAU Wai-hing, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon Andrew LEUNG Kwan-yuen, SBS, JP  
Hon LEUNG Kwok-hung  
Hon CHIM Pui-chung  
Hon CHAN Hak-kan  
Hon WONG Kwok-kin, BBS  
Hon WONG Yuk-man  
Hon IP Kwok-him, GBS, JP
- Member attending** : Hon LEE Wing-tat
- Members absent** : Hon CHEUNG Man-kwong  
Dr Hon Philip WONG Yu-hong, GBS  
Hon WONG Yung-kan, SBS, JP  
Hon LAU Wong-fat, GBM, GBS, JP  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP
- Public Officers attending** : Item I  
Mr Ambrose LEE, IDSM, JP  
Secretary for Security

Ms CHANG King-yiu, JP  
Permanent Secretary for Security

Mrs Jessie TING, JP  
Deputy Secretary for Security 1

Ms Carol YUEN  
Deputy Secretary for Security 2

Mr NGAI Wing-chit  
Deputy Secretary for Security 3

Ms Sally WONG, JP  
Commissioner for Narcotics

Mr Victor LO, PDSM  
Political Assistant to Secretary for Security

Ms Maisie CHAN  
Administrative Assistant to Secretary for Security

Item II

Mr Timothy TONG Hin-ming  
Commissioner  
Independent Commission Against Corruption

Mr Daniel LI Ming-chak, IDS  
Head of Operations  
Independent Commission Against Corruption

Ms Julie MU Fee-man  
Director of Community Relations  
Independent Commission Against Corruption

Mrs Jean AU YEUNG LUI Miu-kwan  
Director of Corruption Prevention  
Independent Commission Against Corruption

**Clerk in attendance** : Mr Raymond LAM  
Chief Council Secretary (2) 1

**Staff in attendance** : Miss Josephine SO  
Senior Council Secretary (2) 1

Miss Helen DIN  
Legislative Assistant (2) 1

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**I. Briefing by the Secretary for Security on the Chief Executive's 2008-2009 Policy Address**  
(LC Paper No. CB(2)66/08-09(01))

Secretary for Security (S for S) briefed Members on the new and ongoing initiatives of the Security Bureau in the 2008-2009 Policy Agenda.

*(Post-meeting note: The speaking note of S for S was issued to members vide LC Paper No. CB(2)113/08-09(01) on 22 October 2008.)*

Proposed establishment of a sex offender register

2. Mr WONG Yuk-man noted that the Review of Sexual Offences Sub-committee (the Sub-committee) of the Law Reform Commission (LRC) had released a consultation paper on Interim Proposals on a Sex Offender Register. The Sub-committee recommended, as an interim measure, the establishment of an administrative scheme to enable employers of people undertaking child-related work and work relating to mentally incapacitated persons to check the criminal conviction records for sexual offences of prospective employees. A list of offences was proposed to be covered by the scheme, which included 35 offences under the Crimes Ordinance (Cap. 200), such as "sexual intercourse with a girl under 16" and "soliciting for an immoral purpose" as laid down respectively in sections 124 and 147 of the Ordinance. Mr WONG said that the Sub-committee's proposals had caused wide public concern. There were views that the introduction of such a sex offender register might jeopardise the employment and rehabilitation opportunities of sex offenders, and would run counter to the work of the Correctional Services Department (CSD) in implementing the Risks and Needs Assessment and Management Protocol for Offenders. He enquired about how a balance could be struck between taking reasonable steps to ensure protection was afforded to children on the one hand, and to ensure that the rights of ex-offenders were respected on the other.

3. In response, S for S made the following points -

- (a) one of the important tasks of CSD was to assist prisoners in their reintegration into the community as law-abiding citizens through the provision of comprehensive rehabilitative services;
- (b) the consultation paper was prepared by the Review of Sexual Offences Sub-committee of LRC after in-depth comparative studies and research. It was noteworthy that sex offender registration had been adopted in many common law jurisdictions;

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- (c) the Sub-committee's objective was to devise a comprehensive scheme for the treatment, rehabilitation, risk assessment and management of sex offenders in order to afford better protection to the community, particularly children and vulnerable persons, without unjustifiably infringing the privacy and other rights of the offenders;
- (d) the Sub-committee recommended that the proposed administrative scheme for sexual conviction records checks should apply only to child-related work and work relating to mentally incapacitated persons, and checks should not be mandatory; and
- (e) the recommendations were still under consultation and did not represent the final views of the Sub-committee or the Administration. The consultation period would end on 31 October 2008.

Enactment of legislation to implement Article 23 of the Basic Law

4. Noting that the Macao Special Administrative Region (MSAR) Government had just announced that it would enact legislation to implement Article 23 of the Basic Law of MSAR, the Deputy Chairman and Mr LEUNG Kwok-hung asked whether the Hong Kong Special Administrative Region (HKSAR) Government would follow suit and enact legislation to implement Article 23 of the Basic Law of HKSAR (BL23).

5. S for S responded that the HKSAR Government noted that the MSAR Government had just put forward draft legislation on the subject for public consultation. He said that the enactment of legislation to implement Article 23 of the Basic Law of MSAR was entirely an internal matter of MSAR. HKSAR had a constitutional duty to enact laws to implement BL23. However, the enactment of such legislation was currently not among the list of priority items of the Administration.

Compensated dating

6. The Deputy Chairman expressed concern about the issue of compensated dating (援助交際). He considered it a complicated social problem which had become increasingly serious in recent years, as evidenced by the increasing number of young girls offering compensated dating through the Internet. He enquired about the measures adopted by the Administration in combating the problem.

7. S for S responded that compensated dating was a complex social problem and a cross-bureau issue. The Security Bureau (SB) was concerned

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about whether such activities would become a source of income of, or would be controlled by, triads and organised crime syndicates. The Police conducted cyber patrol to check if anyone arranged illegal activities through the Internet. As concerted efforts of different bureaux and departments were required to combat the problem, SB would examine the matter with the relevant bureaux/departments.

Workload of immigration staff

8. Mr IP Kwok-him expressed concern whether the increasing number of travellers at various control points would create significant pressure on the workload of immigration staff.

9. S for S responded that the upsurge in passenger traffic in the past 10 years was mainly due to the continued increase in the number of visitors from the Mainland. To cope with the increased workload of immigration officers at control points, additional resources had been provided for creation of posts in the Immigration Department (ImmD) over the years, even during the time between 2002 and 2004 when the Government was implementing the Enhanced Productivity Programme. S for S advised that ImmD would continue to enhance its operational efficiency by flexible deployment of its existing resources, use of information technology and simplifying work procedures. He pointed out that the gradual extension of "e-Channels" had helped relieve the workload of immigration staff, as around 60% to 70% of travellers used this self-service facility for immigration clearance nowadays. To enhance travel convenience for residents of HKSAR and MSAR, Macau permanent residents would be allowed to use "e-Channels" at control points after enrolment. The streamlined system would help saving manpower resources in the long run.

Fire fighting equipment and facilities

10. Mr IP Kwok-him referred to a fire in August 2008 causing the death of two firemen. He said that there were comments that the existing fire-fighting equipment and facilities of the Fire Services Department (FSD) were inadequate. He asked whether the Administration had any plans to replace or upgrade the fire-fighting equipment and facilities of FSD.

11. S for S responded that the Administration attached great importance to the need for providing firemen with safe and reliable equipment and facilities. FSD had been purchasing new protection and communications equipment, which were in compliance with the latest international safety standards, for all firemen. There were also regular reviews and replacement exercises to ensure that firemen were adequately protected whilst carrying out rescue operations.

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Admission of talents and professionals

12. Mr WONG Kwok-kin noted that the Administration planned to streamline the admission arrangements for the employment of talents and professionals to allow employers to recruit upper-middle level executives and professionals from other territories without being required to prove that the job vacancies could not be filled by local labour. He expressed concern whether the relaxation might affect the employment prospects of the local workforce. He asked whether there was any monitoring system to prevent abuse of the admission schemes, and how frequent the Administration reviewed the admission criteria for admission of overseas talents and professionals under different schemes.

13. S for S advised that -

- (a) non-local professionals belonging to any sector might apply to work in Hong Kong under relevant schemes, provided that they possessed skills not readily available locally and were offered a job in a local firm at market rate remuneration;
- (b) separately, highly skilled or talented persons might apply to settle in Hong Kong through the Quality Migrant Admission Scheme (QMAS). QMAS was different from the Admission Scheme for Mainland Talents and Professionals in that applicants were not required to secure a local job offer before they were granted entry into Hong Kong. However, applicants were required to meet a set of prerequisites before they were awarded points under one of the two points-based tests and further assessed for allocation of admission quota. The quota for QMAS was 1 000 per year. Since the implementation of QMAS, some 700 talents/professionals had come to settle in Hong Kong;
- (c) the Administration conducted regular reviews of its talent/professional admission schemes. Taking into consideration the need to strike a balance between facilitating the entry of talents and protecting the interest of local labour, it would draw up a proposal to further streamline the admission arrangements for the employment of talents and professionals;
- (d) past experience showed that the admission of overseas and Mainland talents and professionals had not created negative impact on local employment; and
- (e) persons admitted under various schemes were required to apply for an extension of stay at the end of the initial stay period, and they must demonstrate to the satisfaction of the Director of

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Immigration that they could meet the relevant extension of stay requirements.

Breath tests for enforcing drink driving offences

14. Ms Audrey EU referred to a recent court case in which the Police offered no evidence on the charge against a driver who was suspected of drink driving. Ms EU said that to her knowledge, the driver concerned was not required to conduct a blood test or urine test after the traffic accident. She expressed concern about the adequacy of operational guidelines for frontline Police officers in combating drink driving offences.

15. S for S responded that while the Police assumed enforcement against drink driving offences, measures to combat drink driving, including the requirement of conducting breath test on drivers which was set out in the Road Traffic Ordinance (Cap. 374), were under the purview of the Transport and Housing Bureau. The court case to which Ms EU referred was an isolated case. The decision to offer no evidence on the drink driving charge was based on advice from the Department of Justice (DoJ), taking into account all the circumstances of the case, including the weight of evidence available to the Prosecution and argument raised by the Defence.

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16. Ms Audrey EU requested the Administration to provide information in writing on the remedial measures, if any, adopted by the Administration in view of the court case in question to prevent the recurrence of similar incidents.

*(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(2)191/08-09(01) on 3 November 2008.)*

Issues relating to the sale of Lehman Brothers-related structured products

17. The Deputy Chairman and Mr LEUNG Kwok-hung was gravely concerned about the practices of banks in selling Lehman Brothers-related structured products. The Deputy Chairman pointed out that the incident had caused wide and serious impact as a large number of customers were affected. He held the view that the Government and the relevant regulatory bodies, including the Hong Kong Monetary Authority and the Securities and Futures Commission, should make great efforts to follow up the matter and look at each complaint case seriously. Cases suspected to involve improper selling practices or criminal element should be forwarded to the Commercial Crime Bureau for further investigation. If, after investigation, complaints of mis-selling were substantiated, appropriate actions should be taken.

18. In response, S for S explained that it was the normal practice for the Police to commence initial assessment upon receipt of a complaint. The Police

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would conduct further investigation into those cases that might involve criminal offences, and it would seek legal advice from DoJ where necessary. If there was evidence of criminal elements in any cases, the Police would take prosecution action in accordance with the law.

19. Echoing the view of the Deputy Chairman, Mr LEUNG Kwok-hung suggested that the Police should set up a hotline to facilitate frontline staff of banks to provide intelligence/information relating to improper practices of banks or securities companies in selling Lehman Brothers-related structured products. He asked about the number of complaints received by the Police in respect of Lehman Brothers-related structured products, the number of cases under investigation by the Police and the number of cases with prima facie crime element requiring further investigation.

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20. S for S responded that he did not have the statistics to hand and undertook to provide the requested information after the meeting.

*(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(2)225/08-09(01) on 6 November 2008.)*

Police's handling of searches of detainees

21. Mr LEUNG Kwok-hung and Ms Emily LAU expressed deep concern about the Police's existing practices in handling searches of detainees. Mr LEUNG cited a recent case where a 70 years' old woman was strip searched during her detention in Police station, and asked about the reasons why the search was conducted. Ms LAU recalled that the Police's new arrangements for searches of detainees was implemented on 1 July 2008, she sought information on the number of searches of detainees involving complete removal of clothing and the number of complaint cases received by the Police against these searches between the period 1 July to 30 September 2008.

22. S for S responded that -

- (a) although the detainee in the case to which Mr LEUNG referred had not made any complaint to the Police, the latter had investigated into the case to ascertain whether the search was conducted in circumstances with strong justifications. It was confirmed that the Police officers concerned had acted in accordance with the established procedures;
- (b) the Police had a need to conduct searches on all detainees for the protection of the detainees from self-harm. The Police's new Guidelines on the Searching of Detained Persons, implemented from 1 July 2008, had made clear to frontline officers that they should respect the privacy and personal integrity of those

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detained when conducting searches;

- (c) any person who felt aggrieved by any Police action might make a complaint. All complaints against members of the Police Force were taken seriously. The relevant authorities would investigate into the complaints and take actions as appropriate; and
- (d) regarding the number of searches conducted on detainees between July and September 2008, the Administration did not have the information to hand. It would provide the requested information after the meeting. In the three months from July to September 2008, among searches that were conducted on detainees on Police premises, two complaints were made relating to search of detainees involving removal of clothing or removal of underwear, as compared to six complaints received over the same period in 2007.

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*(Post-meeting note: The requested information referred to in paragraph 22(d) above was circulated to members vide LC Paper No. CB(2)144/08-09(01) on 24 October 2008.)*

Review of the suspicious transaction reporting requirements under anti-terrorism legislation

23. Dr Margaret NG pointed out that neither the United Nations Security Council Resolution 1373 nor the Financial Action Task Force on Money Laundering (FATF) required Hong Kong to make it a potential criminal liability for failure on the part of an ordinary citizen to disclose information on suspicious terrorist transaction. FATF only imposed the obligation to make reports on "financial institutions, or other businesses or entities subject to anti-money laundering obligations". Dr NG recalled that the Administration had undertaken to review the reporting requirements under the United Nations (Anti-terrorism Measures) Ordinance (Cap. 575) on disclosure of knowledge or suspicion that property was terrorist property. She enquired about the progress and results to date of the review.

24. In response, S for S and Commissioner for Narcotics made the following points -

- (a) as an international financial centre, Hong Kong had put in place an effective anti-money laundering and counter financing of terrorism regime to deter criminals from making use of the systems to launder criminal proceeds, and to sustain the healthy growth of legitimate business and investments in Hong Kong. At the international level, the Administration would continue to participate actively in the work of FATF and the Asia/Pacific

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Group on Money Laundering and contribute towards the global fight against money laundering and terrorist financing;

- (b) within Hong Kong, the Administration would follow up on the recommendations set out in the mutual evaluation report on Hong Kong conducted by FATF. In respect of suspicious transactions reporting, FATF commended Hong Kong for providing clear and broad reporting obligations, and had given Hong Kong a 'Largely Compliant' rating for the relevant FATF Recommendation; and
- (c) the Administration would continue to review and to consider, on a policy level, what could be done to further improve the legislative and regulatory regime for combating money laundering and terrorist financing to meet the latest international standards.

Interception of communications and covert surveillance

25. Dr Margaret NG pointed out that under the Interception of Communications and Surveillance Ordinance (Cap. 589) (ICSO), the authority for authorising all interception of communications and Type 1 surveillance operations was vested in one of the three to six judges in the Court of First Instance (CFI) who were appointed as panel judges. Dr NG was concerned that if judges were appointed to the panel, their independence in carrying out their judicial duties as CFI judges might be affected. She also expressed concern about the resource implications on the Judiciary.

26. S for S responded that the Administration would conduct a comprehensive review on the implementation of ICSO in 2009, after the Commissioner submitted his second full-year report to the Chief Executive by end June 2009. The Administration would take heed of the recommendations and suggestions of the Commissioner in the course of the review. So far, the arrangements for authorisation by panel judges had operated well.

**II. Briefing by the Commissioner, Independent Commission Against Corruption on the Chief Executive's 2008-2009 Policy Address**  
(LC Paper No. CB(2)66/08-09(02))

27. Commissioner, Independent Commission Against Corruption (C/ICAC) briefed Members on the policy initiatives of the Independent Commission Against Corruption (ICAC) in the year ahead.

*(Post-meeting note : The speaking note provided by ICAC was issued to members vide LC Paper No. CB(2)113/08-09(02) on 22 October 2008.)*

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Impact of the recent financial tsunami on the overall corruption situation

28. The Deputy Chairman and Ms Emily LAU considered that the broad direction taken by ICAC in combating and preventing corruption represented the right way forward and should be continued. The Deputy Chairman said that as Hong Kong's economy would likely be hard-hit by the recent financial tsunami, the overall corruption situation might reverse in the years to come, steering to an upward trend of corruption. It was very likely that people in the business community, particularly those engaged in the financial services sector, would resort to bribery and corruption. He hoped that ICAC would adopt a proactive approach in the investigation of cases involving corruption.

29. In response, C/ICAC said that the Commission was mindful of the possible impact of the current financial tsunami on Hong Kong's economy and the future trend of corruption. Based on the experience gained from the Asian financial turmoil in 1997, the Commission anticipated an increased challenge to the public's ability to uphold high standards of integrity and probity and hence a possible increase in the number of corruption reports. C/ICAC said that while the number of cases concerning private sector corruption was likely to rise, complaints involving civil servants might also show an upward trend. In view of the complexity and sophistication in corruption cases relating to the financial services sector, particularly those concerning public listing and stock offering which involved huge amounts of monies, ICAC would deploy more resources to enhance its professional capability and the use of information technology to detect and investigate corruption activities.

30. Responding to Mr CHAN Hak-kan's enquiry, C/ICAC said that it was difficult to estimate at the present stage the percentage increase in the number of corruption reports/complaints to be received. Meanwhile, ICAC would continue its efforts to enlist public support for the anti-corruption cause through education and publicity.

Anti-corruption work regarding small and medium enterprises

31. Mr CHAN Hak-kan expressed concern about the corruption situation in the business sector involving small and medium enterprises (SMEs). Since a large number of SME entrepreneurs had set up businesses in the Mainland, he opined that the Administration should endeavour to provide entrepreneurs doing business in the Mainland with more information and guidance on relevant rules and regulations of doing business in the Mainland.

32. C/ICAC responded that noting the rapid growth of cross-boundary business in Hong Kong and Guangdong, ICAC had launched a "Business Ethics Conference for Small and Medium Enterprises" jointly with the Guangdong Provincial People's Procuratorate in April 2008. Riding on the momentum of this conference, ICAC was going to promote a "Corruption

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Prevention Guide for SME Entrepreneurs Investing in Hong Kong and Guangdong" and would offer corruption prevention services to SMEs through the chambers of commerce and trade bodies. SMEs would be provided with a tailor-made best practice module on internal control for their operations. In addition, the Hong Kong Chamber of Small and Medium Business had pledged to incorporate ethical management into the assessment criteria of its 2008 Best SME Award Scheme to encourage good business practices.

Corruption complaints relating to building management

33. Mr IP Kwok-him noted with concern that in the first nine months of 2008, building management (BM) corruption accounted for 43% (714) of the private sector reports, and most of the BM reports, i.e. 60%, concerned the operation and management of the owners' corporations (OCs) in the areas of work relating to building renovation. He enquired about the measures, apart from education and publicity, that ICAC would adopt to assist OCs in taking forward the maintenance and repair works of their buildings.

34. In response, C/ICAC, Head of Operations/ICAC and Director of Community Relations/ICAC made the following points -

- (a) ICAC had investigated into those 714 corruption reports. Most of them, i.e. 60%, were related to mismanagement of OCs. As investigations had revealed evidence of syndicated corruption in building renovation works involving architectural firms, building management consultants and building contractors, ICAC would remain alert and vigilant of corruption activities in the building management sector, and were taking measures on all fronts to combat the problem;
- (b) due to the ageing of buildings, more and more building maintenance projects were being carried out. Since OC members were essentially volunteers who might not have the expertise and time to handle the building management and maintenance issues, they could be easily exploited by unscrupulous personalities who might deploy tactics such as corrupt collusion, bribery and fraud to secure work contracts. Often the amounts involved in these maintenance projects were huge, providing great temptation for manipulation;
- (c) ICAC investigation had revealed a sophisticated modus operandi employed by members of the syndicate: instead of operating as independent professionals or companies, they formed gangs to rig the renovation contracts of buildings under renovation. These gangs set up their own intelligence networks to obtain insider information, through corrupt means if necessary, on buildings

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under renovation as well as personal particulars of members of the relevant OCs. To better serve their illicit purposes, members of the gangs would infiltrate a targeted OC by serving as its office-bearers. As a result of their corrupt activities, it was not uncommon that all companies or individuals shortlisted by an OC as consultant and contractor were in fact related and controlled by the same syndicate. In the circumstances, the independent role of the consultant was completely eroded. Renovation contracts so manipulated would invariably result in the victimisation of property owners in terms of inferior quality of work and inflated cost;

- (d) in view of the large number of corruption reports received, ICAC had since 2007 set up a dedicated investigative group in its Operations Department focusing on organised corruption cases involving renovation consultants and contractors. This strategy had yielded positive results. In the first nine months of 2008, a considerable number of persons were arrested and prosecuted for having committed corruption-related offences in the building management sector; and
- (e) to promote an accountable building management culture, ICAC had launched an Integrity and Quality Building Management and Maintenance Programme, encompassing a wide range of activities including mass media programmes and district activities. In addition, it had, in collaboration with the Hong Kong Housing Society, developed and promulgated a tool kit on building maintenance for OCs' reference. A one-stop enquiry hotline and a dedicated website had been in operation since June 2007 to provide easy public access to corruption prevention guidelines and services on building maintenance and renovation works.

Regulation of listed companies

35. Referring to the recent incident of Citic Pacific Limited, Ms Emily LAU pointed out that the incident had aroused wide public concern and put investors' confidence in Hong Kong at stake. She held the view that the Administration should strengthen the regulation on listed companies to ensure that they would strictly comply with the relevant legislation and the Listing Rules, so as to safeguard the investors' interest. Sharing her view, Mr LEUNG Kwok-hung said that in view of the latest controversies surrounding the management of Citic Pacific Limited, there was a need for ICAC to initiate thorough investigation into the management of the company.

36. C/ICAC responded that ICAC was sensitive to the need to uphold investors' confidence in Hong Kong. ICAC had all along been monitoring the

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situation closely in partnership with regulators, professional bodies and major chambers of commerce in enhancing ethical and professional standards of listed companies. C/ICAC assured members that if the relevant parties, e.g. the directors of a listed company, had corruptly conducted the company's affairs in a manner prejudicial to the interests of investors, ICAC would institute prosecution pursuant to its respective statutory powers. Since 2004, ICAC investigation of corruption complaints against listed companies had led to the cancellation and withdrawal of the listing of three companies, and the suspension of dealings of another eight companies.

37. Responding to Ms Emily LAU's enquiry about the trend of complainants in identifying themselves when reporting corruption, C/ICAC said that the proportion of complainants who identified themselves when reporting corruption remained high at 73%, indicating that the community continued to lend strong support to ICAC's anti-corruption work.

Manpower situation in ICAC

38. Ms Emily LAU expressed concern about the manpower situation of ICAC, and asked about the staff turnover rate in ICAC.

39. In response, C/ICAC informed Members that the staff turnover rate had remained at about the same level over the past few years, although it was slightly higher in 2007. In 2007, a total of 110 staff members (including those who retired), representing 9.3% of the workforce, had left the service of ICAC. In the first nine months of 2008, these figures stood respectively at 70 and 5.8%. ICAC was facing the problem of high attrition rate from application to final appointment due to improvement of the economy at the time.

40. Ms Emily LAU suggested that the manpower situation in ICAC be discussed by the Panel at a future meeting.

41. The meeting ended at 6:10 pm.