

Panel on Financial Affairs

List of outstanding items for discussion
(as at 30 October 2009)

	Proposed timing for discussion at Panel meeting
<p>1. Briefing on the work of HKMA</p> <p>The Chief Executive of HKMA briefs the Panel on the work of HKMA on a regular basis. Such briefings are normally held in February, May and November each year. The next briefing will be held on 19 November 2009.</p>	<p>19 November 2009 February 2010 May 2010</p>
<p>2. Briefing by the Financial Secretary (FS) on Hong Kong's latest overall economic situation</p> <p>The Panel has invited FS to brief the Panel and all other Legislative Council (LegCo) Members on macro economic issues on a regular basis since mid-1999. Such briefings are normally held in June and December each year.</p>	<p>December 2009 June 2010</p>
<p>3. 2010-2011 Budget consultation</p> <p>FS will consult the LegCo on the 2010-2011 Budget.</p>	<p>December 2009</p>
<p>4. Review of corporate rescue procedure legislative proposals</p> <p>The Administration launched the "Review of corporate rescue procedure legislative proposals" consultation on 29 October 2009 for a three-month public consultation.</p> <p>The Administration proposes to brief the Panel on the conceptual framework and key issues of the proposed provisional supervision regime in the consultation paper, including the procedures for initiation, details on the moratorium, options for treatment of employees' entitlement, the appointment of provisional supervisors etc.</p>	<p>December 2009</p>

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5. Legislative proposal to enhance the anti-money laundering regulatory regime in respect of the financial sectors

December 2009

The Administration will launch the second-round consultation on the detailed legislative proposals on enhancement of anti-money laundering regime for financial sectors; and brief the panel on the proposals.

6. Depreciation allowances for profits tax in respect of machinery or plant under the Inland Revenue Ordinance (IRO) (Cap. 112)

December 2009

Dr Hon LAM Tai-fai has written to the Panel Chairman on 13 October 2009 (a copy of Dr LAM's letter is attached at LC Paper No. CB(1)209/09-10(01)) expressing concern that under the existing provision of section 39E of the IRO, Hong Kong enterprises providing machineries or plants for use in the Mainland under the import processing arrangement could not enjoy depreciation allowances for profits tax. Dr Lam suggested that the matter be scheduled for discussion at a Panel meeting as soon as possible. At the Panel meeting on 15 October 2009, Hon Paul CHAN, Hon Vincent FANG and Hon Andrew LEUNG expressed similar concern. Members agreed that consideration should be given to scheduling the subject for discussion at the Panel meeting in December 2009.

7. Budget of the Securities and Futures Commission (SFC) for the financial year of 2010 – 2011

March 2010

In line with the usual practice, SFC will brief the Panel on its budget for the coming financial year in late February or early March.

8. Enhancing deposit protection under the Deposit Protection Scheme

1st quarter 2010

The Hong Kong Deposit Protection Board (the Board) briefed the Panel on the public consultation on enhancing deposit protection under the Deposit Protection Scheme (DPS) at its meeting held on 1 June 2009. The Board provided a report

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on the public consultation and a consultation paper on strengthening the operation of DPS in August 2009 (LC Paper No. CB(1)2491/08-09).

9. Proposed establishment of an independent Insurance Authority (IA)

The Administration proposes to consult the Panel on the proposals for establishing an independent IA including its functions and powers, governance structure, organization framework and funding mechanism.

2nd quarter of
2010

10. Proposed establishment of Policyholders' Protection Fund (PPF)

The Panel was briefed on the proposed framework for the establishment of PPF at the meeting on 6 July 2009. The Administration proposes to consult the Panel on detailed proposals of PPF including the scope of coverage, the levy rates and the corresponding levels of compensation, compensation limits and the target fund size, the governance framework as well as other detailed operational arrangements.

July 2010

11. Policy response to the review of HKMA's work on banking stability

HKMA will brief the Panel on the policy response to the review report.

To be confirmed

12. Review of the "abscondee" regime under the Bankruptcy Ordinance (Cap.6) (BO)

In the course of deliberation, members of the Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2007 were advised by the Administration of its plan to review the "abscondee" regime (i.e. bankrupts who left Hong Kong and could not be contacted) under BO. The Administration

To be confirmed

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further advised that taking into account the policy content involved in the review, and the fact that more time would be needed to study the issue and conduct necessary research into relevant developments in other common law jurisdictions and consultations, it was not appropriate or possible to include legislative amendment proposals with respect to the "abscondee" regime as a whole in the Bill. Any proposed legislative amendments to the "abscondee" regime should be taken forward in a separate exercise.

Members of the Bills Committee were concerned about the timeframe for introducing the proposed legislative amendments to the "abscondee" regime and whether public consultation would be conducted. The Bills Committee agreed that the issues should be referred to the Panel for follow-up. The Administration subsequently advised that it was in the process of conducting a research on the "abscondee" regime. Depending on the results of the research in 2009, it will then be in a better position to assess the scope of necessary amendments to BO and the likely timing to pursue such amendments.

Council Business Division 1
Legislative Council Secretariat
30 October 2009



立法會 LEGISLATIVE COUNCIL

CB(1)209/09-10(01)

林大輝議員 HON LAM TAI FAI, BBS, JP

立法會財經事務委員會主席
陳鑑林議員

陳主席：

目前港資企業如從事「進料加工」安排，其在香港以外地方使用的機械及工業裝置，便不獲折舊免稅額，因而產生嚴重問題。由於此稅務事宜由財經事務及庫務局負責，我現謹來函懇請財經事務委員會作出跟進，並考慮及早安排會議與政府當局深入討論。

《1986年稅務(修訂)條例》在《稅務條例》(第112章)中加入第39E條。該條文旨在限制透過售後租回和槓桿租賃安排而造成稅項遞延或避稅的機會，如機械或工業裝置的擁有人進行有關安排，將不得就提供該機械或工業裝置所招致的資本開支，獲給予初期免稅額及每年免稅額(即折舊免稅額)。

前立法局在1986年審議通過該條文時，政府曾聲明該條文旨在打擊有關的避稅行為，並且特別聲明只是針對售後租回和槓桿租賃兩種租賃安排，同時保證不會影響一般租賃交易和正常的商業交易。

不過，現時在實際執行上，本港企業即使沒有上述避稅行為或意圖，也絕對沒有涉及上述租賃安排，只是按一般商業安排(例如進料加工安排)，將機械及工業裝置讓內地廠房(或其外判生產企業)使用，以生產商品供本港企業銷售，而且本港企業的全部利潤均會在香港課稅，卻一樣不獲給予折舊免稅額。

這樣不但偏離立法原意，跟工業的生產工序北移的實況脫節，而且與內地和香港政府共同鼓勵企業升級轉型的政策不符，更嚴重打擊港資企業的生產力和競爭力，繼而大大窒礙本港經濟發展。

由於我並非財經事務委員會委員，故特此謹請貴委員會能考慮儘早安排討論，要求政府從速檢討有關法例。

林大輝 謹啓

2009年10月13日