LC Paper No. CB(2)633/09-10(06)

Ref : CB2/PL/SE

Panel on Security

Background brief prepared by the Legislative Council Secretariat for the meeting on 5 January 2010

Quality Migrant Admission Scheme and Capital Investment Entrant Scheme

Purpose

This paper gives a summary of past discussions held by the Panel on Security (the Panel) on the Quality Migrant Admission Scheme (QMAS) and the Capital Investment Entrant Scheme (CIES).

Background

2. QMAS is a quota-based entrant scheme introduced on 28 June 2006. It seeks to attract highly skilled or talented persons who are fresh entrants not having the right to enter and remain in Hong Kong to settle in Hong Kong. All applicants are required to fulfill a set of prerequisites before they can be awarded points under one of two points-based tests, namely, the General Points Test (GPT) and the Achievement-based Points Test.

3. CIES was introduced in October 2003. It is aimed at facilitating the entry for residence by capital investment entrants, that is, persons who make capital investment but would not be engaged in the running of any business in Hong Kong. The entrant is allowed to make his choice of investments amongst permissible assets without the need to establish or join in a business.

4. CIES is applicable to -

(a) foreign nationals (except nationals of Afghanistan, Albania, Cuba and Democratic People's Republic of Korea);

(b) Macao Special Administrative Region residents;

(c) Chinese nationals who have obtained permanent resident status in a foreign country;

(d) stateless persons who have obtained permanent resident status in a foreign country with proven re-entry facilities; and

(e) Taiwan residents.

5. To qualify for admission under CIES, the entrant must -

(a) be aged 18 or above when applying for entry under CIES;

(b) have net assets of not less than HK$6.5 million to which he is absolutely beneficially entitled throughout the two years preceding his application;

(c) have invested within six months before submission of his application to the Immigration Department (ImmD), or will invest within six months after the granting of approval in principle by ImmD, not less than HK$6.5 million in permissible investment asset classes (except Certificates of Deposit which must be invested within the latter period);

(d) have no adverse record both in Hong Kong and country/region of residence; and

(e) be able to demonstrate that he is capable of supporting and accommodating himself and his dependants, if any, on his own without relying on any return on the permissible investment assets, employment or public assistance in Hong Kong.

6. A breakdown of the types of applicants under CIES as at 30 September 2009 is as follows -

	Received	Approval-in-principle granted	Formal approval granted
Foreign nationals	1 546	139	843
Macao SAR residents	256	18	166
Chinese nationals with permanent residence overseas	6 642	1 118	3 904
Stateless persons with permanent residence in a foreign country	3	0	3
Taiwan residents	414	28	266
Total	8 861	1 303	5 182

7. Successful applicants of QMAS and CIES may bring their spouse and unmarried dependent children under the age of 18 to Hong Kong provided that they are capable of supporting and accommodating their dependants on their own financial resources without relying on public assistance in Hong Kong.

Discussions on QMAS by the Panel

8. The Administration briefed the Panel on QMAS at the meeting on 7 March 2006. Members were informed that under QMAS, talented people would be allowed to take up residence in Hong Kong without having to secure a local job offer first. QMAS would be open to applicants from all places, except those from countries/regions which posed security or immigration risks. Selection of entrants would be made by a selection committee. The Administration would review QMAS one year after its operation.

9. Some members expressed support for the introduction of QMAS. Some other members, however, expressed concern about the implications of QMAS on local employment. These members queried how the Administration could ensure that QMAS would not affect the employment opportunities of local people, and how the Administration could prevent possible abuse of QMAS. They considered that representatives of the labour sector should be appointed to the selection committee.

10. The Administration responded that there was a need to bring in talented people from outside Hong Kong to meet the manpower needs of the local economy and to enhance Hong Kong's competitiveness in the global market. The quota for QMAS was only 1 000 per year. Experience indicated that an average of about 1.5 new jobs had been created per entrant under the Admission Scheme for Mainland Talents and Professionals. Hence, the Administration believed that QMAS could create more employment opportunities for local people.

11. Regarding the prevention of possible abuse of QMAS, the Administration explained that minimum requirements had been drawn up and a point system had been established. Selection of entrants would be made by a selection committee comprising members from various sectors of the community. The Administration stressed that ImmD possessed substantial experience in vetting the qualifications of applicants. The Administration had not received any complaint about abuse of existing schemes.

12. As regards the composition of the selection committee, the Administration stated that it kept an open mind and would consider the views of members. The membership of the Advisory Committee on Admission of Quality Migrants and Professionals (the Advisory Committee) for the period from 1 July 2008 to 30 June 2010, comprising official and non-official members from different sectors of the community appointed by the Chief Executive, is in **Appendix I**.

13. On the question of whether awarding points to applicants whose children were Hong Kong permanent residents would encourage Mainland women to give birth in Hong Kong, the Administration advised that family connection in Hong Kong was

only one of the factors to which points would be awarded. Family connection alone would not be sufficient for enabling an applicant to come to Hong Kong.

14. On 18 January 2008, the Government announced the following changes to QMAS -

(a) relaxing QMAS to allow those applicants aged 51 or above with proven career achievements, and those younger (in particular the 18 to 24 age group) degree holders with less than five years' working experience or even no working experience to enter the selection pool; and

(b) streamlining the extension of stay requirement for scheme entrants admitted through the Achievement-based Points Test.

15. When the Panel was briefed on the revised QMAS at its meeting on 19 February 2008, some members pointed out that under the revised QMAS, a young Mainland university graduate proficient in Chinese only and with two years' working experience would already be qualified for admission to Hong Kong. These members expressed concern that such a loose requirement would have a negative impact on the employment opportunities of young people in Hong Kong. They considered that the purpose of QMAS would be defeated if the minimum requirement for admission was too low, and enquired about the criteria adopted by the Advisory Committee in the selection of applicants.

16. The Administration responded that the review of QMAS aimed to cast the net wider for talents from places all over the world and expand the pool of candidates for selection. Under the revised QMAS, an applicant with less working experience would be able to attain the passing mark for further assessment through GPT. However, the attainment of the passing mark did not guarantee his admission under QMAS. He would still have to compete with other applicants for the allocation of quota. The Administration emphasized that each application with a score above the passing mark would be assessed by the Advisory Committee on its individual merits. The Advisory Committee would consider factors such as the university at which the applicant had graduated, whether the applicant had furthered his studies overseas, his proficiency in languages other than Chinese and English, the expertise of the applicant, whether the applicant had other achievements in school or at work before determining whether the applicant was a talent needed in Hong Kong. The Administration pointed out that though some applicants from the Mainland possessed less working experience, some were graduates from topnotch Mainland universities who had furthered their studies overseas and whose expertise was needed in Hong Kong.

17. Noting the small number of talents admitted under QMAS, some members considered that GPT should be further revised to reflect the need in Hong Kong for talents. Some other members, however, expressed concern that the revision to the points score under GPT was radical. These members considered that the Administration should first examine whether the small number of admissions under QMAS was due to over-stringent requirements or inadequate publicity. They suggested that the Administration should step up publicity on QMAS.

18. The Administration responded that a number of government departments were playing a role in attracting talents and making Hong Kong a more attractive place for talents. On the immigration front, the Security Bureau (SB) and ImmD endeavored to facilitate the entry of talents and professionals. SB had also worked together with the Information Services Department to draw up a series of publicity programmes on QMAS, which would be launched through Economic and Trade Offices, and Mainland, overseas and local universities.

Discussions on CIES by the Panel

19. The Administration briefed the Panel on the proposed immigration policy to facilitate entry for residence under CIES at the meeting on 10 April 2003. Members were informed that under CIES, an applicant who had net assets of not less than HK$6.5 million to which he was absolutely beneficially entitled throughout the two years preceding his application and invested in Hong Kong with at least that same amount would be allowed to take up residence in Hong Kong. CIES would be open to applicants from all places, except Mainland residents and those from countries/regions which posed security or immigration risks.

20. Members asked how the threshold of $6.5 million would be assessed given that the value of a financial asset would rise and fall in a free market. The Administration explained that the initial transaction values for the purchase of the permissible investment assets would be taken for the calculation of the threshold of $6.5 million. The entrant would not be required to top up the value of his investment in case its market value fell below the threshold of $6.5 million. By the same token, he would not be allowed to withdraw any capital gain from his portfolio should the subsequent value rise above the requisite level. The investment which qualified the capital entrant's entry and continued stay in Hong Kong would thus be "ring-fenced".

21. Some members took the view that the requirement of seven years continuous ordinary residence and the threshold of $6.5 million were too onerous and would affect the competitiveness of CIES. They asked the Administration to consider reducing the ring-fencing period of seven years to enhance the attractiveness of the Scheme. The Administration explained that it had to balance the interest of the prospective entrants and the community as a whole. Given the flexibility of a range of investment options under CIES, the Administration considered it appropriate to set the ring-fencing period at seven years. The Administration would review the criteria in question in the light of actual experience gained from the implementation of CIES.

22. Some members asked whether capital investment entrants and their dependants were subject to certain restrictions in seeking employment in Hong Kong. The Administration responded that it had carefully considered the issue and concluded that capital investment entrants should be allowed to be employed without any restriction. However, since they controlled a substantial amount of capital, it was not inconceivable that they might start a business in a manner that entailed the employment of other people and the creation of more jobs and business opportunities in Hong Kong.

Questions raised by Members at previous Council meetings on CIES

23. At the Council meeting on 11 November 2009, Hon Miriam LAU Kin-yee raised a question on CIES. The question and the Administration's reply are in **Appendix II**.

24. At the Council meeting on 2 December 2009, Hon James TO Kun-sun raised questions on -

(a) the impact of CIES on the prices of real estate and the disparity between the rich and the poor in Hong Kong;

(b) the differences between CIES and similar schemes in foreign countries; and

(c) whether the Administration would review the requirements and effectiveness of CIES regularly.

The question and the Administration's reply are in **Appendix III**.

Relevant papers

25. For further details of the discussions, members may wish to refer to the following documents -

<u>Minutes</u>

(a) minutes of meeting of the Panel on Security on 7 March 2006 (LC Paper No. CB(2)1828/05-06);

(b) minutes of meeting of the Panel on Security on 19 February 2008 (LC Paper No. CB(2)1749/07-08);

(c) minutes of meeting of the Panel on Security on 10 April 2003 (LC Paper No. CB(2)1939/02-03);

<u>Papers</u>

(d) Legislative Council Brief on the Quality Migrant Admission Scheme issued by the Security Bureau in February 2006 (File Ref. SBCR 6/2091/04);

(e) Legislative Council Brief on the review of the Quality Migrant Admission Scheme issued by the Security Bureau in January 2008;

(f) Administration's paper entitled "Quality Migrant Admission Scheme" issued in July 2008 (LC Paper No. CB(2)2553/07-08(01));

(g) Legislative Council Brief on Immigration Policy on Capital Investment Entrant Scheme issued by the Security Bureau on 11 March 2003 (File Ref. SBCR 1/10/2091/99); and

(h) Information Note on Capital Investment Entrant Scheme for Panel on Security (LC Paper No. CB(2)2756/02-03(01)).

26. The above papers are also available on the website of the Legislative Council (http://www.legco.gov.hk).

Council Business Division 2
Legislative Council Secretariat
29 December 2009

Appendix I

Advisory Committee on Admission of Quality Migrants and Professionals

Membership list for the period from 1 July 2008 to 30 June 2010

Mr Henry FAN Hung-ling, SBS, JP (Chairman)

Mr Francis BONG Shu-ying, JP

Mr CHAN Kay-keung

Hon Tommy CHEUNG Yu-yan, SBS, JP

Mr KO Chi-sum, MH

Mr Daniel LAI, BBS, JP

Mr LAI Kam-tong

Mr Benedict LEE Shui-sing, MH

Mr Kelvin LEUNG Kai-yuen

Professor LEUNG Mee-lee

Hon LI Fung-ying, BBS, JP

Mr Dennis NG Wang-pun, MH

Dr Dennis SUN Tai-lun, BBS, JP

Professor Grace TANG Wai-king, SBS, JP

Professor Eliza TSE Ching-yick

Mr YIM Kin-ping

Mr YU Pang-chun, SBS, JP

Representative from the Labour and Welfare Bureau

Representative from the Labour Department

Representative from the Security Bureau

Appendix II

Press Releases

LCQ15: Capital Investment Entrant Scheme
****

Following is a question by the Hon Miriam Lau and a written reply by the Secretary for Security, Mr Ambrose S K Lee, in the Legislative Council today (November 11):

Question:

The Government has implemented the Capital Investment Entrant Scheme since October 2003 to facilitate entry for residence in Hong Kong by capital investment entrants, i.e. persons who bring capital of not less than $6.5 million to Hong Kong but will not be engaged, in the context of the Scheme, in the running of any business in Hong Kong. In this connection, will the Government inform this Council:

(a) up to September of this year, of the number of investors and their related dependants who have migrated to Hong Kong under the Capital Investment Entrant Scheme, the categories of the applicants involved, the total amount of capital they brought to Hong Kong, and the permissible investment asset classes;

(b) whether it has estimated the economic benefits brought to Hong Kong by the above Scheme; if it has, of the results; if not, whether it will consider conducting such an estimation;

(c) of the reasons for rejecting some of the applications submitted under the above Scheme, and the number of such unsuccessful applications;

(d) given that the Capital Investment Entrant Scheme is currently open only to foreign nationals, residents of Macao and Taiwan as well as Chinese nationals with right of abode in a foreign country, etc., and is not applicable to ordinary mainland residents, whether the authorities have approached the mainland authorities concerned to strive for the inclusion of ordinary mainland residents in the Scheme; if they have, of the progress; if not, the reasons for that; and

(e) what specific measures the authorities will implement in the future to enhance the competitiveness of the Scheme to attract more investors to invest in Hong Kong; whether they will consider afresh lowering the investment threshold of $6.5 million, relaxing the requirement of seven years of continuous ordinary residence in Hong Kong, and widening the permissible investment asset classes?

Reply:

President,

(a) As at the end of September this year, 5,182 applicants and 9,945 of their dependants have been approved entry to Hong Kong under the Capital Investment Entrant Scheme (CIES). Among the successful applicants, 843 are foreign nationals, 3,904 are Chinese nationals with overseas permanent residence and 435 are of other categories (e.g. residents of Taiwan and Macau).

The CIES has brought in over HK$36.6 billion, and the distribution under the six types of permissible investment assets are as follows:

	HK$ Million
Equities	17,646.8
Real estate	10,372.5
Debt securities	5,216.8
Collective Investment Schemes	2,995.3
Certificates of Deposits	432.2
Subordinated debt	1.5
	36,665.1

(b) As indicated in (a), the CIES has brought in over HK$36.6 billion of investment. Many local sectors, particularly the financial and the real estate sectors, have directly or indirectly benefited.

As more data are required for analysis, we are not yet able to conduct a detailed quantitative assessment on the indirect economic benefits of the CIES.

(c) As at the end of September this year, a total of 53 applications have been refused, the main reason being the applicants not satisfying the relevant asset requirements.

(d) The CIES is not applicable to ordinary residents in Mainland, where control is implemented over foreign exchange and residents' exit. If necessary, the HKSAR Government will consider exchanging views with relevant Mainland authorities in this regard.

(e) Since the implementation of the CIES in late 2003, the yearly application figures are as follows:

2004	465
2005	495
2006	800
2007	1,795
2008	2,798
2009 (Jan - Sep)	2,358

The application figures show that the CIES is attractive to investors. In general, the appeal of an investment immigration scheme depends on various factors. Apart from the minimum investment requirement, the range of investment choices is also important. The Government has recently included insurance products satisfying the relevant requirements as permissible investment assets. We will review the Scheme from time to time, with a view to improving its attractiveness to investors.

The requirement that a person has to reside for seven years before applying for permanent residence in Hong Kong is in accordance with relevant provision in the Basic Law.

Ends/Wednesday, November 11, 2009
Issued at HKT 14:52

NNNN

Appendix III

Press Releases

LCQ13: Capital Investment Entrant Scheme
****

Following is a written reply by the Secretary for Security, Mr Ambrose S K Lee, to a question by the Hon James To Kun-sun in the Legislative Council today (December 2):

Question:

Under the Capital Investment Entrant Scheme ("the CIE Scheme"), if investors invest not less than $6.5 million of capital in real estate or financial assets, they and their dependants will be allowed to stay and reside in Hong Kong. In this connection, will the Government inform this Council:

(a) whether it has assessed the impact of investors investing capital in real estate and financial assets under the CIE Scheme on the prices of real estate and the disparity between the rich and the poor in Hong Kong, as well as the number of jobs created in Hong Kong by the capital concerned to date; if so, whether it will release the assessment results; if such an assessment has not been made, what criteria the authorities adopt for assessing the impact of the CIE Scheme on Hong Kong;

(b) whether it knows if the governments of the United States, the United Kingdom, Canada, Australia and Singapore have implemented similar entrant schemes; if they have, of the differences between these schemes and the CIE Scheme of Hong Kong in terms of the investment amounts required, the permissible investment classes as well as other additional conditions; and

(c) whether it will, in response to factors such as development of the real estate and financial markets in Hong Kong, attractiveness of making the relevant investments in Hong Kong as well as inflation, regularly review the requirements and effectiveness of the CIE Scheme (including the minimum investment amounts and whether investors whose applications have been rejected will still choose to invest in Hong Kong, etc.); if it will, of the details?

Reply:

President,

(a) The Capital Investment Entrant Scheme (the CIES) has brought Hong Kong some HK$36.6 billion of investment since October 2003, within which HK$10.4 billion was investment in properties. This amount is less than 1% of the total trading volume in the property market in the same period (around HK$2.2 trillion [Note: 1]) and thus has no significant impact on the prices of real estates. In fact, prices of real estates depend primarily on factors such as demand and supply, interest rates and the investment environment.

As at November 22, 2009, a total of 5 604 principal applicants have been granted Formal Approval to come to Hong Kong under the CIES. Assuming that each approved applicant represents one household arriving in Hong Kong, this would amount to just 0.2% of Hong Kong households. Hence, the impact on the disparity between the rich and the poor is limited.

The CIES will directly or indirectly benefit various local sectors, especially the construction and decoration work industry, property agencies, financial and business services, etc. At the same time, investors and their dependants contribute to local consumption and related economic activities whilst in Hong Kong. We believe these activities create job opportunities. Owing to lack of statistics, the Government is not able to conduct any detailed quantitative assessment in this regard.

(b) The United Kingdom, Canada, Australia and Singapore have similar investment immigration schemes (i.e. an investor can apply for immigration through making investment, without having to start or participate in a business). The United States does not operate such schemes. When the CIES was introduced in 2003, the Government had made reference to similar schemes overseas.

The annex summarises the general requirements of such schemes in different places.

(c) The Government will review the CIES from time to time, with a view to improving its attractiveness to investors. We believe that Hong Kong's appeal to potential immigrants hinges on various factors including the business/employment opportunities, living standard, cost of living, tax system, etc.

The annual application figure jumped from 465 in 2004 to 2 997 this year (up to November 22), indicating the attractiveness of the CIES to investors. As at November 22, 2009, a total of 53 applications have been refused. The main reason was that the applicants did not satisfy the relevant asset requirements. We do not have information as to whether these unsuccessful applicants have invested in Hong Kong.

(Note 1: This figure is the total consideration for sales and purchase agreements of building units from 2004 to 1st half of 2009)

Ends/Wednesday, December 2, 2009
Issued at HKT 15:46

NNNN

Annex to LCQ13

Country/Region	Investment Threshold	Investment Class	Additional Conditions
Australia	AUD1.5 million (approximately HK$10.8 million)	Non-transferrable and non-redeemable government securities	Net assets of at least AUD 2.25 million (approximately HK$16.2 million)
Canada	C$400 000 (approximately HK$3 million)	Non-transferrable zero-interest government promissory notes	Personal net worth of at least C$800 000 (approximately HK$5.9 million), and not less than two years of business experience
Singapore	S$2 million (approximately HK$11.3 million)	Approved funds or residential property for self-occupation (up to 50% of the investment amount can be invested in the latter)*	At least three years of entrepreneurial experience
The United Kingdom (UK)	£750 000 (approximately HK$9.7 million)	Government bonds, or share capital or loan capital in active UK-registered companies	Applicant must own, or have money under his control and disposable in the UK amounting to no less than £1 million (approximately HK$13 million)
Hong Kong	HK$6.5 million	Real estate, securities, bonds, certificates of deposits, subordinated debts, and collective investment schemes	/

* If no investment is made in residential property, the threshold is S$1.5 million (approximately HK$8.5 million).

- END -