

**For discussion  
on 16 February 2011**

**EC(2010-11)18**

## **ITEM FOR ESTABLISHMENT SUBCOMMITTEE OF FINANCE COMMITTEE**

**HEAD 148 – GOVERNMENT SECRETARIAT :  
FINANCIAL SERVICES AND THE TREASURY BUREAU  
(FINANCIAL SERVICES BRANCH)**

**Subhead 000 Operational expenses**

Members are invited to recommend to Finance Committee the creation of the following supernumerary post in the Financial Services and the Treasury Bureau (Financial Services Branch) for a period of 30 months with immediate effect –

1 Administrative Officer Staff Grade C  
(D2) (\$117,950 - \$129,000)

### **PROBLEM**

There is a need to create a supernumerary Administrative Officer Staff Grade C (AOSGC) (D2) post in the Financial Services Branch (FSB) under the Financial Services and the Treasury Bureau (FSTB) for the purpose of establishing a Policyholders' Protection Fund (PPF) and taking forward the proposal of establishing an independent Insurance Authority (IIA).

### **PROPOSAL**

2. Having regard to the discussion of the Establishment Subcommittee (ESC) at its meeting on 12 January 2011 on ESC paper EC(2010-11)17 concerning our earlier proposal to create a supernumerary AOSGC post for 36 months, we have revised our proposal and would now propose to create a supernumerary AOSGC post in FSB for 30 months with immediate effect upon approval by the Finance Committee (FC).

**/JUSTIFICATION .....**

## JUSTIFICATION

3. Pursuant to the support expressed by the Legislative Council (LegCo) Panel on Financial Affairs and the insurance industry in 2009 to the proposal to establish a PPF and the proposed framework for pursuing this initiative, the Administration commissioned an actuarial consultancy study in 2010 to assess the optimal levy rate, target fund size and other detailed arrangements for the proposed PPF, with a view to developing detailed proposals for public consultation and providing a basis for drafting the necessary legislation to implement this initiative.

4. The proposed establishment of a PPF is one of the most significant reform proposals for the insurance industry in the past ten years. The successful implementation of this initiative would require careful assessment of a wide range of policy issues pertaining to the development of a cost effective and publicly acceptable funding model and compensation mechanism with a clearly defined scope, supported by efficient administrative arrangements; and it would require enactment of a comprehensive legislation to provide statutory backing of the proposed PPF. In view of the scale and complexity of this exercise, it requires focused attention at AOSGC level to prepare detailed proposals having regard to the outcome of the actuarial study and coordinate the public consultation exercise; to analyse the comments received during the public consultation exercise for developing legislative proposals; to prepare a draft Bill in conjunction with the Department of Justice and take forward the subsequent legislative exercise. At the implementation stage, we would need to address the operational arrangements for setting up the PPF.

5. At present, the subject Principal Assistant Secretary (PAS) in FSB (viz. PAS(FS)3) responsible for the insurance portfolio is also responsible for overseeing all policy matters pertaining to the Mandatory Provident Fund (MPF) Schemes and Occupational Retirement Schemes and the review of related legislation. We have reviewed and considered that given the existing heavy work schedule especially in light of the major tasks concerning the MPF portfolio (please see paragraph 11 below), it will go beyond PAS(FS)3's capacity to also take up the intensive work required for implementing the PPF initiative. A supernumerary AOSGC post needs to be created as soon as possible to give dedicated attention to the PPF initiative and to enable us to continue to work towards the target of drawing up detailed proposals for public consultation. Assuming smooth progress of the necessary steps to be taken, we expect that the proposed PPF can be implemented in 2013-14.

6. We have completed a three-month public consultation exercise on the proposal to establish an IIA in October 2010 and are now analysing the views collected from the insurance industry and the general public. Whilst there is general support for the establishment of an IIA, we received different views on

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various aspects of the proposed functions of the IIA, and many respondents have pointed out that the Government should continue to engage the industry and other stakeholders in taking forward this proposal. In the light of the view of some Members that the Administration should not assume the establishment of the IIA as the proposal will be subject to further consultation, the responsibilities of the proposed post will not cover implementation of the IIA proposal. Instead, the post holder will focus on developing the IIA proposal to address the comments received and meet public aspiration and market development needs, and continuing to gauge views from the industry and other stakeholders in developing further detailed proposals to facilitate public discussion. In the process, many policy issues including those relating to the organisational structure, governance framework, funding arrangements, and regulatory duties and powers in respect of the IIA, would have to be carefully considered. As explained in paragraph 5 above, PAS(FS)3 does not have the capacity to take up these additional tasks. We therefore propose that the relevant work should be taken up by the proposed supernumerary AOSGC post. The duration of the proposed post is accordingly shortened as it does not cover implementation.

7. Details of the main responsibilities of the proposed supernumerary post are –

- (a) to conduct public consultation, and analyse the public comments received and formulate the detailed legislative proposals (including the preparation of the drafting instructions) for the proposed establishment of a PPF;
- (b) further to (a), to work with the Department of Justice on drafting of the bill, and to steer the bill through LegCo, with a view to completing the various key milestones for implementing the PPF initiative; and
- (c) to engage the industry, other stakeholders and financial regulators in developing detailed proposals on the proposed establishment of an IIA, having regard to public comments received in the last public consultation exercise.

We propose that the supernumerary AOSGC post be designated as Principal Assistant Secretary (Financial Services) (Special Duties) (PAS(FS)SD). The proposed job description of the post is at Enclosure 1. An organisation chart of FSB showing the proposed creation of the post is at Enclosure 2.

Encl. 1  
Encl. 2

8. Subject to the progress of work to implement the PPF initiative and development of the IIA proposal in the light of stakeholders' views on the relevant detailed proposals, we will review in due course whether it is necessary to seek approval for extending the supernumerary post of PAS(FS)SD to proceed with any unfinished or related tasks.

**/Non-directorate .....**

**Non-directorate Support**

9. The post of PAS(FS)SD will be supported by a team of three non-directorate officers, comprising one Senior Administrative Officer, one Personal Secretary I and one Assistant Clerical Officer. All these will be supernumerary posts for a period of 30 months which dovetails the proposed term for the PAS(FS)SD post.

**ALTERNATIVES CONSIDERED**

Encl. 3 10. At present, there are seven PAS(FS)s in FSB overseeing different policy portfolios, including securities and futures, banking, insurance, MPF, anti-money laundering, accountancy, insolvency, and other companies-related matters. The existing job descriptions are set out in Enclosure 3.

11. As briefly explained in paragraph 5 above, the existing PAS(FS)3 cannot take up the PPF- and IIA-related work because the post-holder is already fully stretched to undertake major tasks concerning the MPF portfolio. Such major tasks include (a) review of the operation of the MPF system in conjunction with the Mandatory Provident Fund Schemes Authority (MPFA), e.g. minimum and maximum relevant income for MPF contribution, the mode and conditions for the withdrawal of accrued benefits as well as the suitable level for the Compensation Fund established under the Mandatory Provident Fund Schemes Ordinance and its implication on the levy payable by trustees; (b) a legislative exercise for enhancing the regulatory regime for MPF intermediaries; (c) the implementation of the Employee Choice Arrangement for increasing employees' control of their MPF investments, etc. They are in addition to the housekeeping of the MPFA and policies relating to the implementation and enhancement of the MPF Schemes and Occupational Retirement Schemes. Subject to the proposed creation of the supernumerary post, PAS(FS)3 will focus on MPF-related matters and the remaining insurance-related duties.

12. We have also critically examined whether the other PASs in the FSB can absorb the additional work of PAS(FS)SD. These other PAS(FS)s are fully occupied with the workload arising from various new initiatives, major legislative exercises and numerous on-going commitments including the proposed establishment of an Investor Education Council and a Financial Dispute Resolution Centre; the proposed transfer of the public offering regime for structured products from the Companies Ordinance to the Securities and Futures Ordinance; the development of offshore Renminbi business, asset management industry and bond market; the proposed statutory disclosure requirements for price sensitive information of listed companies; the legislative exercise to enhance Hong Kong's anti-money laundering regime; the Companies Ordinance rewrite, etc. Therefore it is operationally not feasible for any of them to take up the PPF- and IIA-related tasks without seriously affecting the discharge of their current duties.

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## **FINANCIAL IMPLICATIONS**

13. The proposed creation of the supernumerary post of PAS(FS)SD will bring about an additional notional annual mid-point salary of \$1,503,000. The full annual average staff cost of the proposal, including salaries and staff on-cost is \$2,097,000.

14. The notional annual salary cost at mid-point for the three non-directorate supporting posts mentioned in paragraph 9 above is \$1,492,740, and the full annual average staff cost, including salaries and staff on-cost, is \$2,272,000.

15. We will include the necessary provision in the Estimates of 2011-12 and subsequent years to meet the cost of the proposed creation of the supernumerary post and the three non-directorate posts.

## **PUBLIC CONSULTATION**

### **Panel on Financial Affairs**

16. The LegCo Panel on Financial Affairs was consulted on 3 January 2011 on an earlier proposal of creating the same supernumerary AOSGC post for 36 months with immediate effect upon approval by FC. The Panel had no objection to Government seeking the support of the ESC and the FC to the staffing proposal. A Member sought information on the staffing and financial implications of the transition of Office of the Commissioner of Insurance into the IIA. We provided the supplementary information vide an information note before the ESC meeting on 12 January 2011.

### **Establishment Subcommittee**

17. The ESC discussed at its meeting on 12 January 2011 the proposal of creating a supernumerary AOSGC post for 36 months. A number of Members were concerned that the responsibilities of the proposed supernumerary post should not include the implementation of the proposed IIA when the Administration has not yet provided detailed proposals to facilitate further public discussion. The Administration has reviewed the case and revised its proposal.

## **BACKGROUND**

18. The proposals for a PPF and an IIA were highlighted as Government's policy initiatives in the Chief Executive's 2008-09 Policy Address and the Financial Secretary's 2010-11 Budget Speech. They are amongst FSTB's priority initiatives on the Policy Agenda after the relevant announcements.

**/ESTABLISHMENT .....**

**ESTABLISHMENT CHANGES**

19. The establishment changes in the FSB for the last two years are as follows –

Establishment (Note)	Number of posts			
	Existing (as at 1 January 2011)	As at 1 April 2010	As at 1 April 2009	As at 1 April 2008
A	12 + (3)#	12 + (3)	12 + (3)	12 + (2)
B	59	57	53	51
C	91	91	89	88
Total	<b>162 + (3)</b>	<b>160 + (3)</b>	<b>154 + (3)</b>	<b>151 + (2)</b>

Note:

A – ranks in the directorate pay scale or equivalent

B – non-directorate ranks, the maximum pay point of which is above MPS Point 33 or equivalent

C – non-directorate ranks, the maximum pay point of which is at or below MPS Point 33 or equivalent

( ) – number of supernumerary directorate posts

# – as at 1 January 2011, there was no unfilled directorate post in FSB.

**CIVIL SERVICE BUREAU COMMENTS**

20. The Civil Service Bureau supports the proposed creation of the supernumerary AOSGC post. The grading and ranking of the proposed post are considered appropriate having regard to the level and scope of responsibilities required.

**ADVICE OF THE STANDING COMMITTEE ON DIRECTORATE SALARIES AND CONDITIONS OF SERVICE**

21. As the proposed post is on a supernumerary basis, its creation, if approved, will be reported to the Standing Committee on Directorate Salaries and Conditions of Service in accordance with the agreed procedure.

**Proposed Job Description**  
**Principal Assistant Secretary for Financial Services and the Treasury**  
**(Financial Services) (Special Duties)**

**Rank** : Administrative Officer Staff Grade C (D2)

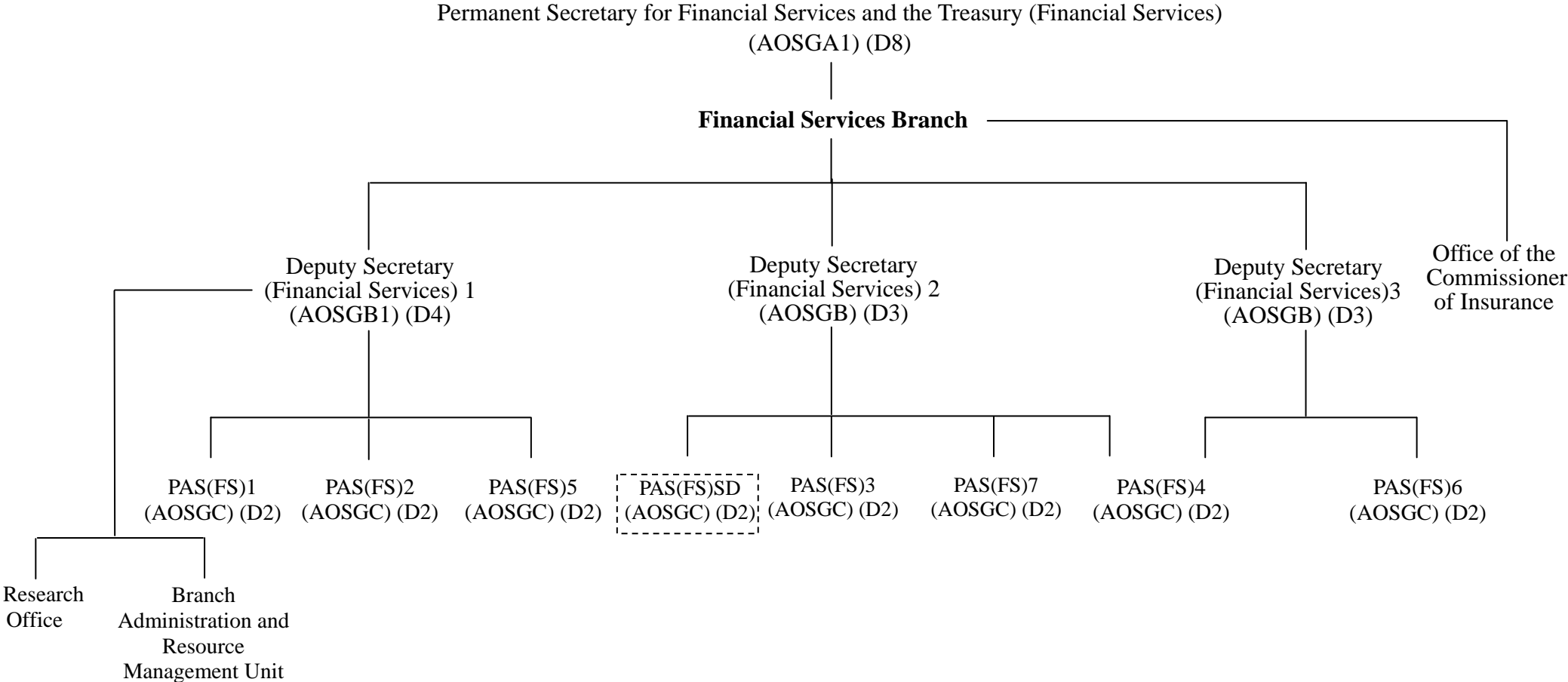
**Responsible to** : Deputy Secretary for Financial Services and the Treasury  
(Financial Services) 2

**Main Duties –**

1. To conduct public consultation, and analyse the public comments received and formulate the detailed legislative proposals for the establishment of a Policyholders' Protection Fund (PPF).
2. To oversee the drafting of the bill and completion of the legislative process for establishment of a PPF, and complete the necessary preparatory work and enactment of the subsidiary legislation with a view to completing the various key milestones for implementing the PPF initiative.
3. To engage the industry, other stakeholders and financial regulators in developing detailed proposals on the proposed establishment of an independent Insurance Authority, having regard to public comments received in the last public consultation exercise.

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**Organisation Chart of the Financial Services and the Treasury Bureau (Financial Services Branch)**



- Legend:**
- Supernumerary directorate post to be created
  - AOSGA1 Administrative Officer Staff Grade A1
  - AOSGB1 Administrative Officer Staff Grade B1
  - AOSGB Administrative Officer Staff Grade B
  - AOSGC Administrative Officer Staff Grade C
  - PAS(FS) Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)



**Duties and Responsibilities of  
the Existing Principal Assistant Secretaries  
(Financial Services) (PAS(FS)s)**

PAS(FS)1 is responsible for policy and matters relating to investor protection of the securities and futures markets. In addition, he/she provides policy input on supervision of intermediaries and of market operation, and deals with the housekeeping matters of the Securities and Futures Commission (SFC). He/She also coordinates the operation of the Securities and Futures Appeals Tribunal and the Market Misconduct Tribunal. He/she provides secretariat support for the Process Review Panel for SFC, and coordinates among the financial regulators on risk management matters and is now working on the proposed establishment of an Investor Education Council and a Financial Dispute Resolution Centre.

2. PAS(FS)2 is responsible for listing related matters and liaison with the Hong Kong Exchanges and Clearing Limited. He/She is working on the proposed statutory disclosure requirements for price sensitive information of listed corporations, and the legislative exercise to transfer the public offering regime for structured products from the Companies Ordinance to the Securities and Futures Ordinance. He/She also oversees the development of commodities market in Hong Kong.

3. PAS(FS)3 oversees policy and legislative matters over the insurance sector, the Mandatory Provident Fund (MPF) Schemes and the Occupational Retirement Schemes. His/her portfolio covers all MPF-related and insurance-related matters, including the housekeeping matters of Mandatory Provident Fund Schemes Authority and Office of the Commissioner of Insurance. He/she is currently absorbing tasks relating to the proposed establishment of an independent Insurance Authority and a Policyholders' Protection Funds, and the enhancement of the regulatory regime for MPF intermediaries and the planned implementation of the portability proposal to increase employees' control of their MPF investment.

4. PAS(FS)4 is partially deployed to one of the divisions in the Companies Bill Team to assist in taking forward the rewrite of the Companies Ordinance and corporate rescue review. Apart from these duties, he/she also assists in handling insolvency policy and administration, accounting sector policy and legislation and corporate governance of unlisted companies. He/She deals with housekeeping matters of the Official Receiver's Office and the Financial Reporting Council (FRC), and provides the secretariat support for the Process Review Panel for FRC.

5. PAS(FS)5 is responsible for the review and maintenance of Banking Ordinance, and liaison with the Hong Kong Monetary Authority on banking and other related issues. He/She oversees policy matters and legislation concerning the Deposit Protection Scheme as well as those relating to bond market development and Islamic finance. In addition, he/she coordinates input from financial services perspective in connection with Hong Kong's participation in relevant international and regional fora, including G20, Financial Stability Board, International Monetary Fund, Asia-Pacific Economic Cooperation, Asian Development Bank and the Organization for Economic Co-operation and Development.

6. PAS(FS)6 deals with policies and legislation relating to companies and trust companies. He/She coordinates the work relating to rewrite of the Companies Ordinance as well as review of the Trustee Ordinance. He/She also deals with the housekeeping matters of the Companies Registry.

7. PAS(FS)7 serves as the Secretary to the Central Coordinating Committee on Anti-Money Laundering and Counter Financing of Terrorism chaired by the Financial Secretary. He/She coordinates the proposed anti-money laundering (AML) legislation in respect of the financial sectors to address the deficiencies identified in the Financial Action Task Force (FATF) mutual evaluation conducted in 2007. He/She also acts as the coordinator and liaison contact for Hong Kong's participation in and inputs to the discussions of the FATF and other international forums on AML/Counter Financing of Terrorism (CFT). In addition, he/she assists in overseeing the implementation of AML/CFT policies in Hong Kong.

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