

**立法會**  
**Legislative Council**

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**Panel on Financial Affairs**

**Minutes of special meeting  
held on Friday, 21 October 2010 at 11:30 am  
in the Chamber of the Legislative Council Building**

**Members present** : Hon CHAN Kam-lam, SBS, JP (Chairman)  
Hon CHAN Kin-por, JP (Deputy Chairman)  
Hon Albert HO Chun-yan  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B..St.J., JP  
Dr Hon David LI Kwok-po, GBM, GBS, JP  
Hon James TO Kun-sun  
Hon Emily LAU Wai-hing, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Vincent FANG kang, SBS, JP  
Hon LEE Wing-tat  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Hon WONG Ting-kwong, BBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon CHIM Pui-chung  
Hon KAM Nai-wai, MH  
Hon Starry LEE Wai-king, JP  
Dr Hon LAM Tai-fai, BBS, JP  
Hon Paul CHAN Mo-po, MH, JP  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP

**Member attending** : Hon WONG Kwok-hing, MH

**Member absent** : Dr Hon Philip WONG Yu-hong, GBS

**Public officers attending** : Agenda Item I

Prof K C CHAN, SBS, JP  
Secretary for Financial Services and the Treasury

Mr Stanley YING, JP  
Permanent Secretary for Financial Services and the Treasury (Treasury)

Miss AU King-chi, JP  
Permanent Secretary for Financial Services and the Treasury (Financial Services)

Ms Julia LEUNG, JP  
Under Secretary for Financial Services and the Treasury

Mr CHENG Yan-chee, JP  
Deputy Secretary for Financial Services and the Treasury (Financial Services) 1

Mr Patrick HO, JP  
Deputy Secretary for Financial Services and the Treasury (Financial Services) 2

Mr John LEUNG, JP  
Deputy Secretary for Financial Services and the Treasury (Financial Services) 3

**Clerk in attendance:** Ms Anita SIT  
Chief Council Secretary (1)5

**Staff in attendance :** Mr Daniel SIN  
Senior Council Secretary (1)7

Ms Haley CHEUNG  
Legislative Assistant (1)8

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**I Briefing by the Secretary for Financial Services and the Treasury on the relevant policy initiatives in the Chief Executive's 2010-2011 Policy Address**

(LC Paper No. CB(1)52/10-11(01) — Administration's paper on policy initiatives of the Financial Services and the Treasury Bureau

Two booklets provided by the Administration

- (a) Address by the Chief Executive at the Legislative Council meeting on 13 October 2010 — "Sharing Prosperity for a Caring Society"; and
- (b) The 2010-2011 Policy Address — "Policy Agenda".)

Briefing by the Administration

The Secretary for Financial Services and the Treasury (SFST) briefed Members on the Financial Services and the Treasury Bureau (FSTB)'s policy initiatives featured in the Chief Executive's 2010-2011 Policy Address, and highlighted the following areas of work:

- (a) preparation of a bill to codify in the Securities and Futures Ordinance (Cap. 571) (SFO) certain requirements on disclosure of price sensitive information by listed corporations for introduction into the Legislative Council (LegCo) within the current legislative session;
- (b) implementation of enhancements to the Deposit Protection Scheme in early 2011;
- (c) preparation of detailed legislative proposals for the establishment of an independent Insurance Authority for introduction into LegCo in 2011;
- (d) publication of consultation conclusions by end 2010 on the proposed establishment of a cross-sectoral investor education council and a financial dispute resolution centre;
- (e) formulation of legislative proposals for the regulation of Mandatory Provident Fund (MPF) intermediaries;

- (f) introduction of the Companies Bill within the current legislative session;
- (g) taking forward the review of the Trustee Ordinance;
- (h) strengthening capital market co-ordination with the Mainland and promoting development of the local Renminbi (RMB) bond market and settlement platform; and
- (i) continued development of the local bond market.

### Discussion

#### *Employee Choice Arrangement and regulation of MPF intermediaries*

2. Mr WONG Kwok-hing said that many employees were disappointed at the delay in implementing the Employee Choice Arrangement (ECA). He enquired about the timetable for the legislative work on regulation of MPF intermediaries and the implementation of the Employee Choice Arrangement.

3. The Deputy Chairman welcomed the Administration's proposal to regulate MPF intermediaries through legislation. He said that the legislation was important in providing a legal basis for instigating disciplinary actions against practitioners' misconduct. The Deputy Chairman asked when the Administration would introduce the relevant legislation.

4. SFST said that ECA was introduced to provide more investment choices for employees. It aimed at increasing market competition that could drive down fees. As implementation of ECA would put employees as the direct targets of marketing and sale activities of MPF intermediaries in future, in order to ensure better protection of employees' interests, the Administration had agreed with the Mandatory Provident Fund Schemes Authority that it was necessary to tighten supervision of MPF intermediaries by legislation. The Administration intended to introduce the relevant bill in 2011 so that the legislative process could be completed within the 2011-2012 legislative session.

*Capital flows and asset bubble risk*

5. Mr WONG Kwok-hing said that Mr Joseph YAM, former Chief Executive of the Hong Kong Monetary Authority (HKMA), had recently warned against the risk of asset bubbles in Hong Kong as a result of another round of quantitative easing measures launched by the United States (US) and other economies. Mr YAM had noted that in the event that the asset bubbles burst, asset value could plunge by 30% to 40%. Mr WONG asked how the Administration would alert the public of the asset bubble risk and what measures would be introduced to brace the local economy against a possible financial crisis.

6. SFST said that the Administration would ensure the stability of the financial market through stepping up supervision of financial institutions. Investor education would also be stepped up.

7. Mrs Regina IP and Ms Starry LEE noted that the falling US dollar value and a new wave of quantitative easing measures would probably lead to a surge of capital inflows, sending asset prices and inflation further up. When the direction of capital flow reversed, equity and property prices would fluctuate drastically. Given the linked exchange rate system, the Administration had limited financial policy tools to avert asset price fluctuations. They asked what measures the Administration would take to forestall the formation and development of asset bubbles.

8. SFST responded that since Hong Kong was a free market economy, it was inevitable that Hong Kong would be susceptible to the impact of hot money inflows. The Administration's primary objective was to maintain the stability of the financial market through stepping up supervision of financial institutions to ensure that they managed their risks properly. HKMA had stepped up supervisory measures such as reducing the loan-to-value ratio ceiling for mortgage loans, and reminding financial institutions to take into account lenders' repaying ability in the event of interest rate increase in assessing loan applications. Relevant guidelines for financial institutions were regularly updated. The Administration would also disseminate information to alert the public and investors of market uncertainties, in particular the possibility that the market situation could reverse in a sudden and drastic manner.

9. Ms Starry LEE enquired about the progress of the formulating arrangements for the sharing of comprehensive positive credit data among banks, to facilitate banks' prudent assessment of a borrower's repayment ability. SFST said that the matter involved many technical issues and the Administration was actively pursuing the matter.

10. Mrs Regina IP asked under what circumstances there would be substantial capital outflows from Hong Kong. SFST explained that there were many economic and financial factors that would affect the flow of capital, such as the fluctuation of US dollar value, the economic conditions in the US or a change in policies in major markets. At times of heightened market uncertainties, investors might turn to the US dollar as a shelter for their capital.

11. Mr LEE Wing-tat was concerned about the impact of hot money inflows on the local property market. He said that the price level of the second-hand property market had increased by 5% to 7% since the announcement of the Chief Executive's Policy Address. While HKMA had introduced measures to curb speculation by regulating mortgage loans, there was no distinction between first-time property buyers from those who were buying the second or the third property in implementing the measures. He considered that in offering mortgage loans, banks should apply different loan-to-value ratios to first-time property buyers and those buying the second or multiple properties. He asked what specific measures the Administration would introduce to forestall the escalation of property prices.

12. SFST said that HKMA was discussing with the banking sector on various risk management measures; financial institutions would be expected to exercise greater vigilance in assessing borrowers' financial position and their repayment ability in determining a mortgage loan application. SFST remarked that the Administration had formulated long-term, medium-term and short-term measures for sustaining a healthy property market, and would adjust these measures as and when appropriate. The Administration would continue to monitor the market situation and would not rule out launching additional measures.

*Hong Kong Mortgage Corporation Limited*

13. Mrs Regina IP queried the need for the Hong Kong Mortgage Corporation Limited (HKMC) to continue to operate the Mortgage Insurance Programme, as the Administration should attempt to curb properties price escalation by reducing demand. She asked whether the Administration would review the relevant policy. SFST said that HKMA would monitor property market activities and regulate mortgage lending. HKMC operated according to market principles and would adjust its operation having regard to market conditions, and it would not fuel property market speculation.

14. Mr Jeffrey LAM said that the Chief Executive had mentioned in his Policy Address that HKMC was exploring the establishment of a market-oriented loan guarantee scheme to provide a sustainable platform for

obtaining credit. He said the scheme, if implemented, would be a considerable help to Hong Kong's small and medium-sized enterprises in the long term. Mr LAM asked when HKMC would complete the study. SFST said that the formulation of the loan guarantee scheme was in progress. The current thinking was for the scheme to operate based on commercial principles without relying on the Government to provide loan guarantee.

#### *Independent Insurance Authority*

15. Mr Albert HO said that he recognized the merits of establishing an independent Insurance Authority (IIA), but was concerned about the possible lack of transparency in IIA's future operation, as in the case of HKMA and the Securities and Futures Commission (SFC). He criticized that the latter two authorities were sluggish in taking up complaints, and when they did, they were reluctant to make public the findings of their investigations. Mr HO said that even though HKMA and SFC were bound by certain secrecy provisions, the Financial Secretary (FS) could disclose the relevant information on grounds of public interest. He said if FS did not have such power, the Administration should introduce legislation to provide for such power.

16. SFST agreed that regulatory authorities should maintain a high degree of transparency in their operation. However, in considering whether an investigation should be disclosed, the authorities had to take into account all relevant factors. In this regard, the practice of the regulatory authorities of other leading financial markets would be relevant. The Administration would keep an open mind in drawing up detailed proposals for the IIA.

17. The Deputy Chairman said that the Administration had promised the insurance sector a second round consultation on the IIA proposals. The sector was worried that the Administration would simply take forward the proposal without taking into account its feedback when finalizing the legislative proposals. He sought the Administration's assurance that the second round consultation would be a 'genuine consultation'. SFST assured Members that the Administration would engage the sector in the process before finalizing the bill and there would be 'genuine consultation'.

#### *Policyholders' Protection Fund*

18. The Deputy Chairman asked when the Administration would announce the legislative proposal for introduction of the Policyholder's Protection Fund (PPF), and what the legislative timetable was. SFST said that an actuarial consultancy study was underway which involved compilation and analysis of voluminous actuarial data. Meanwhile, the Administration had actively engaged the insurance sector in working out the detailed proposals. The

Administration aimed to formulate proposals by the end of 2010 or soon thereafter for consultation.

*Statutory codification of certain requirements to disclose price sensitive information by listed corporations*

19. Mr Ronny TONG welcomed the Administration's proposal to codify in the SFO the requirements on disclosure of price sensitive information by listed corporations. He said that many investors had called for additional disclosure of information by listed companies. Apart from price sensitive information, listed corporations should have statutory duty to publish periodic financial reports. He asked whether the Administration would consider amending the Companies Ordinance (Cap. 32) (CO) to address investors' concerns. SFST said that upon enactment of the relevant legislation, listed corporations would be obliged continuously to disclose price sensitive information. The Administration considered that the requirement of publishing periodic financial reports by listed corporations should be implemented through the Listing Rules, which was already the case at present, rather than through legislation. The Administration would review the arrangement when necessary.

20. Mr TONG asked what measures the Administration would introduce to protect small shareholders' interests in the event of privatization through a scheme of arrangement under the CO. This issue was highlighted by the Administration in its consultation in relation to the CO rewrite exercise. He enquired about the Administration's stance on the issue and suggested that the Administration should revert to the Panel on this issue. SFST said that the issue would be addressed in the Companies Bill and the Administration would soon report to the Panel on the conclusions of the consultation on the draft Companies Bill.

*Market development*

21. Mr Ronny TONG said that the Administration had previously briefed the Panel on a legislative proposal to facilitate the development of Islamic finance in Hong Kong, and queried why this initiative was not mentioned in the Administration's paper. SFST said that since there were a number of financial initiatives needed to be taken forward, the Administration needed to prioritize these initiatives according to market conditions.

22. Referring to the market development initiatives mentioned in the Administration's paper, Mr Ronny TONG enquired how enthusiastic overseas corporations/investors were towards Hong Kong. SFST said that Hong Kong was a popular market as evidenced by the fact that it topped the other financial markets in the number of initial public offerings last year. Fund managers were



eager to establish operations in Hong Kong to facilitate their ventures into the Mainland. SFST added that it was therefore all the more important for Hong Kong to strengthen the financial regulatory systems.

23. Mr Jeffrey LAM said that the pace of Renminbi (RMB) business development in Hong Kong was too slow. He urged the Administration to step up efforts taking the advantage of the Closer Economic Partnership Arrangement (CEPA) and the Framework Agreement on Hong Kong / Guangdong Co-operation and promote local RMB bond market and asset management business.

24. SFST said that RMB business in Hong Kong had grown rapidly over the past year and the performance exceeded the sector's expectation. While the internationalization of RMB presented many business opportunities, there were still a lot to be done in positioning Hong Kong as an offshore RMB business centre. SFST said it was necessary to leverage on Hong Kong's edge in the banking sector to attract more RMB settlement and clearance businesses in the meantime.

#### *Financial regulatory structure*

25. Mr Paul CHAN asked what the Administration's position was on the dual regulator arrangement for Hong Kong's financial institutions in respect of certain financial services and when the Administration would submit proposals arising from the review of Hong Kong's financial regulatory structure. SFST said that efforts to enhance the financial regulatory structure were on-going. He stressed that any enhancement should be built upon the existing regulatory framework, and should be pragmatic and meet the objective of protecting investors.

#### *Corporate rescue procedure*

26. Ms Starry LEE asked when the Administration would submit legislative proposals on corporate rescue procedure to LegCo. SFST said the Administration had started the ground work for the legislation. As there were already many legislative proposals scheduled for introduction into LegCo, the Administration needed to prioritize the relevant bills under the legislative programme accordingly.

#### *Depreciation allowance in Hong Kong for machinery and plants made available for use by Mainland enterprises under section 39E of the Inland Revenue Ordinance*

27. Mr Paul CHAN said the Administration had invited the Joint Liaison Committee on Taxation (JLCT) to review the implementation of section 39E of the Inland Revenue Ordinance (Cap. 112) (IRO) (which concerned depreciation allowance in Hong Kong for machinery and plants made available for use by Mainland enterprises free of charge under "import processing arrangements"). He understood that JLCT had already submitted recommendations to the Administration. Mr CHAN asked what the Administration's position was towards JLCT's recommendations and when it would introduce legislative proposals in response to the commercial and professional sectors' requests.

28. Ms Emily LAU said that some Hong Kong manufacturers had reflected to her that the Administration was not giving enough support to the industrial sector and was not willing to amend the tax law to provide justifiable tax relief to Hong Kong manufacturers. Pointing out that Members were generally in support of amending section 39E of IRO to align with new developments in cross-border trade, she asked if the Administration would introduce suitable legislative proposals to address the sector's concerns.

29. SFST said that the Administration was looking into the matter in collaboration with JLCT. However, he pointed out that any amendments to the provision in section 39E of IRO would involve many technical considerations. One key issue was how to ascertain whether a piece of machinery or plant placed in the Mainland under import processing arrangements was indeed used for generating profits in a business in Hong Kong, such that the depreciation of the machinery or plant was deductible in calculating profits tax. As it would take some time to resolve various technical details, SFST said the Administration could not give a definite timetable on when the review would be completed.

30. The Chairman said that while it was necessary for the Administration to exercise care to protect government revenue and prevent tax avoidance, it was also important for the Administration to respond to the sector's concerns within reasonable time and not to be procrastinating on the matter. Ms Emily LAU asked the Administration to submit proposals to the Panel for discussion as early as possible, preferably within three to four months.

#### *Setting up of a tax policy unit*

31. Mr Paul CHAN asked if the Administration would review and consider setting up a special tax policy unit to conduct an in-depth and comprehensive review of the local taxation system. SFST said that the Administration did not see such a need as the Treasury Branch in the Financial Services and the Treasury Bureau was already performing relevant functions. Besides, each

year, FS would conduct Budget consultation. Many suggestions from various sectors were taken on board and improvements had been effected in the present tax regime.

*Commuter tax*

32. Mr Jeffrey LAM enquired about the Administration's position on the "commuter tax" proposal. SFST said that the Administration was aware of the trades' concerns and was liaising with the Mainland tax authorities on the way forward. The 183-day standard under the double taxation relief arrangements with the Mainland with respect to Taxes on Income was based on established international protocols. The implementation of commuter tax involved many practical issues.

**II Any other business**

33. There being no other business, the meeting ended at 12:40 pm.

Council Business Division 1  
Legislative Council Secretariat  
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