

**For discussion
on 3 January 2011**

Legislative Council Panel on Financial Affairs

**Proposed Establishment of an Investor Education Council and
a Financial Dispute Resolution Centre**

Consultation Conclusions

PURPOSE

This paper briefs Members on the consultation feedback and conclusions on the proposed establishment of an Investor Education Council (“IEC”) and a Financial Dispute Resolution Centre (“FDRC”) in Hong Kong.

BACKGROUND

2. We consulted the public on the proposals from February to May 2010 and briefed this Panel on the same at its meeting on 1 March 2010. The proposals covered (i) the establishment of an IEC to holistically oversee the delivery of investor education and to help empower the public in making financial decisions; and (ii) the setting up of an FDRC to offer an impartial, speedy and affordable way to handle monetary disputes between consumers and financial institutions by way of ‘mediation first, arbitration next’. We have received a total of 115 submissions from a diverse group of stakeholders.

OUTCOME OF CONSULTATION

3. The respondents in general welcomed the establishment of an IEC to holistically oversee the delivery of investor education. They also indicated support in principle for setting up of a one-stop service for

resolving financial disputes.

4. Having considered the submissions and public feedback received during the public consultation and balanced the views of different stakeholders, we decide to establish an IEC and an FDRC. The setting up of an IEC and an FDRC can enhance trust between consumers and financial institutions, which is core to the healthy development of Hong Kong's financial sector. The consultation conclusions were released on 13 December 2010 and were issued to Members through the Legislative Council (LegCo) Secretariat on the same day. They are available for public viewing at the website of the Financial Services and the Treasury Bureau (http://www.fstb.gov.hk/fsb/ppr/consult/consult_iec_fdrc.htm).

MAIN PROPOSALS

Part I - IEC

5. IEC as a dedicated educational body will holistically oversee the needs of investor education and delivery of related initiatives in respect of the entire financial sector in Hong Kong. IEC will implement a balanced and pragmatic strategy appealing to the public through a mixture of mass media campaigns, online resources and tailored outreach programme for different sectors of the community, etc. The aim is to improve the financial literacy and capability of the general public.

6. IEC will not give any investment advice directly or indirectly by rating and reviewing investment products. It will collaborate and co-ordinate with industry bodies and financial services providers with a view to bridging any gap and avoiding any overlap. It will also review the education programme from time to time to gauge its effectiveness.

7. The Securities and Futures Commission ("SFC") will set up the IEC as a wholly owned subsidiary company. IEC will take up and enhance the current investor education initiatives undertaken by SFC, and on that basis offer expanded education programme across the financial services industry. SFC will provide full funding to the IEC. No funding from the Government will be required and no extra levies and

charges will be imposed on investors.

8. An SFC-appointed Board of Directors will be set up to govern IEC. Relevant financial regulators, Government bureaux and industry experts will be represented on the IEC Board. The SFC Board will recommend an SFC Non-Executive Director to be the Chairman of the IEC Board for endorsement by the Financial Secretary.

Part II - FDRC

9. FDRC is to administer a financial dispute resolution scheme by way of primarily mediation and, failing which and if the claimant so wishes, arbitration. FDRC will handle disputes which -

- (i) arise in respect of services provided by a financial institution to individual consumer(s) or sole proprietor(s);
- (ii) are of a monetary nature; and
- (iii) involve a financial institution which is a licensee/regulatee of the Hong Kong Monetary Authority (“HKMA”)/SFC¹;

10. Financial institutions regulated by HKMA/SFC will be obligated to be members of the scheme operated by FDRC. HKMA and SFC will respectively amend the licensing conditions for authorized institutions and the Code of Conduct for SFC-licensed corporations to include the requirement to abide by the FDRC procedures. Currently there are about 1 900 such financial institutions. The insurance and MPF sectors will be carved out at the beginning and the coverage of the financial dispute resolution scheme will be reviewed later.

11. The maximum claimable amount under the financial dispute resolution scheme will be set at HK\$500,000. The FDRC service will be offered at a fee to both the claimants and financial institutions, under a “pay-as-you-use” principle. After taking into account views received, the schedule of fees is slightly revised and summarised in the table at Annex. FDRC will review the levels of various fees regularly.

¹ Credit rating agencies which will become Type 10 licensees under the Securities and Futures Ordinance will be excluded from the financial dispute resolution scheme.

12. The regulators deal with regulatory breaches while FDRC deals with monetary disputes. Our guiding principle in the interface between FDRC and regulators is very clear: not to burden financial institutions with excessive requirements on the one hand; and not to compromise regulators' powers and duties to investigate alleged regulatory breaches on the other. FDRC should not be, or give the impression that the confidentiality of its process would become a regulatory blind spot. FDRC should share observations and information with regulators, for example when there are a number of similar disputes that may indicate the existence of wider implications for the regulated sector. A Memorandum of Understanding will be in place to delineate the roles between FDRC and regulators. FDRC shall also regularly disclose summary data of cases it has handled on an unnamed basis for public education purpose.

13. The Government will set up FDRC as a company limited by guarantee and together with HKMA and SFC, provide the set-up costs and operation costs of FDRC in the first three years. Thereafter FDRC will be funded by the financial industry, and to a lesser extent the claimants.

14. FDRC will be governed by a Board of Directors to be appointed by the Government. It will be broadly based and representative of the major stakeholders, with well-regarded community personalities equipped with knowledge of financial services and consumer protection.

WAY FORWARD

15. We are working on the amendments to the Securities and Futures Ordinance for authorising SFC to establish the IEC. The SFC's ambit on investor education will also be broadened to cover financial products and services other than those in the securities and futures sector. We aim to introduce the legislative amendments to LegCo within this legislative session. We expect the IEC to come into full operation as soon as the legislative amendments have been passed.

16. We are also making preparations with HKMA and SFC for the establishment of FDRC. HKMA and SFC will respectively consult their licensees and regulatees within the first half of 2011 before amending the licensing conditions for authorized institutions and the Code of Conduct for SFC-licensed corporations to include the requirement to abide by the FDRC procedures. We will seek funding approval on the Government's contribution in the latter half of this legislative session in accordance with established procedures. We expect that FDRC will be set up by mid-2012.

Financial Services and the Treasury Bureau
December 2010

Annex

Schedule of Fees (in Hong Kong dollar)

	Claimant	Financial Institution
Making enquiries	Nil	Not Applicable
Filing a claim form	\$200	Not Applicable
Mediation	(Case fees)	(Case fees)
Amount of claims		
- less than \$100,000	\$1,000	\$5,000
- between \$100,000 and \$500,000	\$2,000	\$10,000
Arbitration (regardless of the amount of claims)	(Case fees) \$5,000	(Case fees) \$20,000