

Panel on Financial Affairs

List of follow-up actions
(Position as at 11 October 2010)

Subject	Date(s) of relevant meeting(s)	Follow-up actions	Outcome
1. Impact of duty-free cigarettes on tax revenue	---	Members of the Bills Committee on Dutiable Commodities (Amendment) Bill 2009 expressed concern that the tobacco duty rate increase might lead to upsurge in the sale of duty-free cigarettes, which would reduce tax revenues. The Administration was requested to provide information on sales figure of duty-free cigarettes and the duty potential of the duty-free cigarettes sold within six months to one year after enactment of the Bill. The matter was referred to the Panel on Financial Affairs for follow-up.	The Administration's response was circulated to members vide LC Paper No. CB(1)2479/09-10 on 7 July 2010.
2. Depreciation allowances in respect of machinery and plants under "import processing" arrangements	14 December 2009	(a) To facilitate the Panel's understanding of the impact of the application of section 39E on Hong Kong enterprises providing machinery or plants for use by Mainland enterprises under "import processing" arrangements, the Administration was requested to provide information on the number of tax assessment cases in the past few years where Hong Kong enterprises had been denied depreciation allowances pursuant to the above-mentioned provision (including but not limited to the number of cases where the enterprises concerned had raised	For (a), the Administration's response was circulated to members vide LC Paper No. CB(1)2479/09-10 on 7 July 2010. For (b), the Administration's response was circulated to members vide LC Paper No. CB(1)1371/09-10(02) on 11 March 2010.

Subject	Date(s) of relevant meeting(s)	Follow-up actions	Outcome
		<p>objections to the assessments).</p> <p>(b) The Administration was requested to respond to the following motion passed by the Panel:</p> <p>"本委員會促請政府：</p> <p>(1) 改變以一刀切的方式處理本港各企業在內地使用的機械或工業裝置（包括模具）所應享有的折舊免稅額，以致一些沒有避稅意圖或行為的本港企業未能取得該免稅額而致多付稅款；</p> <p>(2) 停止錯誤引用《稅務條例》第 39E 條向沒有避稅意圖或行為的本港企業追討有關稅款，以及，</p> <p>(3) 立即啟動有關的法例檢討機制，按實際情況檢討及修改第 39E 條，使條文與時並進，避免打擊無辜企業，妨礙他們的升級轉型，影響到本港經濟發展和就業機會。"</p> <p>(Translation)</p> <p>"That this Panel urges the Government to:</p> <p>(1) change the broad-brush approach adopted for granting depreciation allowances to Hong Kong enterprises in respect of their machinery or plants</p>	

Subject	Date(s) of relevant meeting(s)	Follow-up actions	Outcome
		<p>(including moulds) used in the Mainland, as such approach renders some local enterprises with no tax avoidance intention or acts unable to claim such allowances, and hence paying more taxes;</p> <p>(2) cease invoking section 39E of the Inland Revenue Ordinance incorrectly for recovery of taxes from Hong Kong enterprises with no tax avoidance intention or acts; and</p> <p>(3) activate immediately the relevant mechanism for legislative revision to review and amend section 39E according to actual circumstances, in order to modernize the provision and avoid impacting on the blameless enterprises and hindering their upgrading and restructuring processes, which will in turn affect the economic development and employment opportunities in Hong Kong."</p>	
<p>3. Review of notification and appeal system for disclosure of information under comprehensive avoidance of double taxation agreements</p>	<p>29 December 2009 (date of referral from Bills Committee)</p>	<p>As requested by the Bills Committee on Inland Revenue (Amendment) (No. 3) Bill 2009, the Administration will report to the Panel on Financial Affairs on the effectiveness of the proposed notification and appeal system for disclosure of information under comprehensive avoidance of double taxation agreements 18 months after implementation.</p>	<p>Response awaited</p>

Subject	Date(s) of relevant meeting(s)	Follow-up actions	Outcome
4. Legislative proposals to enhance the efficiency of the existing tax appeal mechanism	4 January 2010	<p>In relation to a member's concern that the proposal to empower the Board of Review to give pre-hearing directions and to sanction non-compliance may have undue effects on taxpayers in seeking tax appeals, the Administration was requested to substantiate its legislative proposal when that is introduced into the Legislative Council by including the following information:</p> <ul style="list-style-type: none"> (i) the number of hearings of the Board which had been deferred due to late submission of documents; and (ii) the number of wasted days of the Board resulting from the late submission of documents. 	The Administration's response was circulated to members vide LC Paper No. CB(1)2479/09-10 on 7 July 2010.
5. Eight Finance Investment Company Limited (EFIC)	20 May 2010	In relation to a member's concern about the EFIC's investment, the Hong Kong Monetary Authority (HKMA) was requested to provide information about the investment strategy, investment portfolio and investment returns of the EFIC.	HKMA's response was circulated to members vide LC Paper No. CB(1)2254/09-10 on 15 June 2010.
6. Exchange Fund	20 May 2010	In relation to a member's concern about the investment income of the Exchange Fund, the HKMA was requested to provide information about the investment income of the Exchange Fund for the first quarter of the years from 2007 to 2010. The information should be itemized as per pages 59 and 60 of the HKMA's briefing paper for the meeting. HKMA was also requested to include, in its	HKMA's response was circulated to members vide LC Paper No. CB(1)2254/09-10 on 15 June 2010.

Subject	Date(s) of relevant meeting(s)	Follow-up actions	Outcome
		future briefings to the Panel, such itemized information about the investment income of the Exchange Fund for the same quarter of the previous three years.	
7. Financial affairs matters under the Framework Agreement on Hong Kong/Guangdong Co-operation	20 May 2010	<p>(a) In relation to a member's concern about the very high asset requirement for Hong Kong insurance companies to enter the Mainland market, the Administration was requested to report the progress of the discussion with the Chinese Insurance Regulatory Commission on lowering the threshold as soon as possible, and on a half-yearly basis.</p> <p>(b) To address a member's concern about enforcement against insider trading activities committed outside Hong Kong, the Administration was requested to provide information regarding the arrangements between the Hong Kong regulatory bodies and relevant Mainland/overseas authorities in investigation of insider trading activities undertaken outside Hong Kong in relation to securities listed in the Stock Exchange of Hong Kong.</p>	The Administration's response was circulated to members vide LC Paper CB(1)2217/09-10 on 14 June 2010.
8. Briefing by the Financial Secretary on Hong Kong's latest overall economic situation	7 June 2010	In relation to members' concern raised at the captioned meeting about the heated property market, the Administration is requested to provide information about the supply of small and medium sized domestic flats in the next few years.	The Administration's response was circulated to members vide LC Paper No. CB(1)2334/09-10 on 23 June 2010.
9. Legislative proposal to	5 July 2010	In relation to members' concerns raised on the subject, the	The Administration's

Subject	Date(s) of relevant meeting(s)	Follow-up actions	Outcome
enhance the qualifying debt instrument scheme		<p>Administration is requested to provide the following information:</p> <ul style="list-style-type: none"> (a) given that only 4% (or about \$42 billion) of Hong Kong's total debt issuance are qualifying debt instruments (QDI) issuance, and 46% of the total issuance are privately-placed short-term debt instruments with an original maturity of less than three years, details of the types of debt instruments available in the Hong Kong market, including their original maturity, their issuers and their percentages out of the total issuance in the market; (b) an analysis of the development of the debt market in Hong Kong; (c) the definition of "associate" in the context of the Inland Revenue Ordinance (Cap. 112); (d) the criteria and legal backing for determining whether an instrument is a "qualifying debt instrument" under the existing QDI scheme, and the relevant legislative provision(s) specifying that structured financial products are not "qualifying debt instruments" under the scheme; and 	<p>response was circulated to members vide LC Paper No. CB(1)2664/09-10 on 28 July 2010.</p>

Subject	Date(s) of relevant meeting(s)	Follow-up actions	Outcome
		<p>(e) the updated position of the Government Bond Programme, including the original maturity periods, quantity and amounts of bonds issued, the yields from the bonds in comparison with the Exchange Fund notes, and the timetable for issuance of Government bonds to retail investors.</p>	
<p>10. Transactions of flats at 39 Conduit Road and disclosure of information by the listed property developer</p>	<p>5 July 2010</p>	<p>In relation to members' concern about the transactions of flats at 39 Conduit Road, the Administration and HKMA are requested to provide relevant information, including but not limited to the following:</p> <ul style="list-style-type: none"> (a) in view of the effect on the share price of the listed property developer, whether the Securities and Futures Commission and the Stock Exchange of Hong Kong Limited have regulatory oversight over the dissemination of information relating to the sales of flats at 39 Conduit Road at sensational prices by the property developer; (b) whether the abovementioned regulatory authorities and/or other law enforcement authorities have initiated any enquiry/investigation into the incident; (c) whether any existing statutes/codes/rules are 	<p>The Administration and HKMA's responses were circulated to members vide LC Papers Nos. CB(1)2597, 2612 and 2655/09-10 on 19, 21 and 27 July 2010 respectively.</p>

Subject	Date(s) of relevant meeting(s)	Follow-up actions	Outcome
		<p>or may be applicable to false trading in the real estate market; and whether the dissemination of information of false sales of the stock in trade of a listed company may contravene any provisions of the Securities and Futures Ordinance (Cap. 571) or any other applicable legislative provisions;</p> <p>(d) when the regulatory authorities would make public the findings of their investigations and, if applicable, subsequent relevant enforcement actions;</p> <p>(e) whether HKMA has given directions to banks as described in the company's letter; if yes, the rationale for such directions; and whether and how such directions are consistent with the announced policies and established practices of HKMA in supervision of banks.</p>	
11. Review of corporate rescue procedure legislative proposals	19 July 2010	In relation to members' concern about the proposed introduction of insolvent trading provisions, the Administration is requested to provide details of the views expressed by different parties on the relevant proposals during the public consultation.	The Administration's response was circulated to members vide LC Paper No. CB(1)2719/09-10 on 10 August 2010.
12. Regulation of issuers of multi-purpose stored	27 July 2010	As agreed at the captioned meeting, Octopus Holdings Limited is requested to provide, within two weeks, the	The Octopus Holdings Limited's responses were

Subject	Date(s) of relevant meeting(s)	Follow-up actions	Outcome
value cards and related personal data protection issues		<p>following information -</p> <ul style="list-style-type: none">(a) copies of the agreements between Octopus Holdings Limited/its subsidiary companies and their business partners on provision of cardholders' personal data;(b) the number of customers whose personal data have been provided to each and every business partner, the number of times the cardholders have been contacted by each business partner, and the revenue received by Octopus Holdings Limited/its subsidiary companies from each business partner for provision of the cardholders' personal data;(c) the respective purposes for which the cardholders' personal data have been used by Octopus Holdings Limited/its subsidiary companies and the business partners;(d) details of the revisions to the terms and conditions regarding "personal data" in the agreements Octopus cardholders are required to enter into in order to acquire the services of Octopus Holdings Limited/its subsidiary companies, and samples of the relevant revised forms; and	circulated to members vide LC Papers Nos. CB(1)2720/09-10, 2740/09-10 and 2751/09-10 on 10, 13 and 19 August 2010 respectively.

Subject	Date(s) of relevant meeting(s)	Follow-up actions	Outcome
		(e) details of the information submitted to the respective Boards of Directors of the Octopus Holdings Limited/its subsidiary companies, and the MTR Corporation Limited on provision of Octopus cardholders' personal data to business partners.	

Council Business Division 1
Legislative Council Secretariat
11 October 2010