

立法會
Legislative Council

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Panel on Financial Affairs

Minutes of special meeting
held on Friday, 14 October 2011 at 10:45 am
Conference Room 1 of the Legislative Council Complex

Members present : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon CHAN Kin-por, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon James TO Kun-sun
Dr Hon Philip WONG Yu-hong, GBS
Hon Emily LAU Wai-hing, JP
Hon LEE Wing-tat
Hon Jeffrey LAM Kin-fung, GBS, 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
Hon Paul CHAN Mo-po, MH, JP

Member attending : Hon WONG Kwok-hing, MH

Member absent : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP

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

Miss Salina YAN, JP
Deputy Secretary for Financial Services and the Treasury (Financial Services) 1

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

Ms Jennifer CHAN
Acting Deputy Secretary for Financial Services and the Treasury (Financial Services) 2

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

Staff in attendance : Mr Noel SUNG
Senior Council Secretary (1)5

Ms Haley CHEUNG
Legislative Assistant (1)5

I Briefing by the Secretary for Financial Services and the Treasury on the relevant policy initiatives in the Chief Executive's 2011-2012 Policy Address

(LC Paper No. CB(1)42/11-12(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 12 October 2011 — "From Strength to Strength"; and
- (b) The 2011-2012 Policy Address — "Policy Agenda".

Briefing by the Administration

The Secretary for Financial Services and the Treasury (SFST) briefed Members on the policy initiatives of the Financial Services and the Treasury Bureau (FSTB) featured in the Chief Executive's 2011-2012 Policy Address, and highlighted the following areas of work:

- (a) statutory codification of the requirements on listed corporations to disclose price sensitive information;
- (b) establishment of an Investor Education Council and a Financial Dispute Resolution Centre;
- (c) establishment of an independent Insurance Authority and a Policyholders' Protection Fund;
- (d) improvements to the Mandatory Provident Fund (MPF) system;
- (e) development of offshore Renminbi business in Hong Kong;
- (f) advancing financial co-operation with the Mainland and strengthening Hong Kong-Guangdong co-operation on financial services;
- (g) broadening the source of listed companies;
- (h) promotion of asset management business;
- (i) development of the local bond market;

- (j) rewrite of the Companies Ordinance;
- (k) reform of the trust law;
- (l) modernization of the corporate insolvency law; and
- (m) implementation of new Basel requirements for authorised institutions.

Discussion

Trading of Loco London Gold

2. Mr WONG Kwok-hing said that in the past year he had received complaints from 65 persons complaining against Loco London gold trading frauds which involved more than \$17 million. Mr WONG enquired whether and when the Government would consider introducing legislation to regulate the trading of Loco London gold, including licensing of the intermediaries concerned.

3. SFST responded that currently, the public could invest in gold or gold-related products through various channels. Among them, gold exchange-traded funds (ETFs) and gold futures traded on the stock market; paper gold schemes; and funds invested in gold derivatives and gold mining companies were subject to the authorization or approval of the Securities and Futures Commission (SFC). As for companies providing gold trading services in Hong Kong, they were not required to register with or obtain a license from SFC. These gold trading activities were conducted through direct negotiation between buyers and sellers over-the-counter (OTC). Complaints related to London gold were primarily concerned with suspected deceptive and fraudulent acts operating under the name of London gold trading, and these acts had nothing to do with the trading system of the genuine Loco London gold market. Deceptive and fraudulent acts were criminal offences regulated under the Theft Ordinance (Cap. 210), and the Police had been taking active enforcement actions. For cases suspected of involving criminal offences like deception or theft, the Police would conduct investigation and institute prosecution if there was sufficient evidence. Given that deceptive and fraudulent acts were already regulated by legislation, the Government considered that the most effective way to deal with these unlawful acts was to strengthen enforcement and public education instead of introducing new legislation to regulate the Loco London gold market. To step up enforcement efforts, the Police had set up a team under the Commercial Crime Bureau that specialized in preventing and combating London gold trading frauds. This was

done through closely monitoring the trend and the changes in the modus operandi of London gold trading frauds, enhancing public awareness by education through the mass media and other means, liaising with the Consumer Council to collect intelligence, and investigating suspicious cases or providing assistance to relevant investigative units.

4. Mr KAM Nai-wai pointed out that in many cases, the Police did not take action on reports of alleged deception by companies dealing in London gold. Mr KAM enquired whether the Government would consider introducing legislation to regulate companies providing gold trading services, based on the statistics on reports and convictions relating to trading of Loco London gold.

5. SFST responded that the Police had stepped up enforcement actions against deceptive and fraudulent acts relating to the trading of Loco London gold. For instance, in January 2011, a man was convicted under the Theft Ordinance (Cap. 210) in relation to a Loco London gold case and was sentenced for eight months' imprisonment.

Regulation of listing and listed companies

6. Pointing out that the Government and the regulatory bodies had adopted a "disclosure based" regulatory policy for the financial market, Mr CHIM Pui-chung enquired whether the Government and the regulatory bodies had shirked their responsibilities in authorizing the listing of some mining companies, as the listing documents for these companies indicated that the companies would shoulder all the responsibilities for the content of the documents.

7. SFST responded that based on the "disclosure based" principle, the regulatory bodies reviewed the disclosure requirements on listed corporations as and when necessary, in order to ensure that price sensitive information would be disclosed in a timely and fair manner to investors free of charge. The Hong Kong Exchanges and Clearing Limited had revised, in June 2010, the Listing Rules for the listing of mining companies, aligning them with international requirements adopted in Canada, Australia and South Africa.

8. Given that many listed companies were Mainland and overseas companies whose operations were mainly outside Hong Kong, Mr Albert HO said that many investors were concerned whether the Hong Kong regulatory regime could effectively apply to such companies. Mr HO was concerned that some of these listed Mainland and overseas companies might even use accountants and auditors in their respective jurisdictions, whose work might not comply with the required standard in Hong Kong. Mr HO enquired

whether Mainland and overseas companies listed in Hong Kong were allowed to engage accountants and auditors outside Hong Kong.

9. SFST responded that the Government and SFC were also concerned about the regulation of Mainland and overseas companies listed in Hong Kong. SFC had already kept an eye on the listing requirements for Mainland and overseas companies, the regulation of relevant issuers and intermediaries, and the requirements on disclosure of price sensitive information. SFST remarked that in line with international practice, Mainland and overseas companies listed in Hong Kong were allowed to use Hong Kong and/or internationally recognized accounting and auditing companies. As far as Mainland companies were concerned, the listed companies were also allowed to engage accounting and/or auditing firms specially approved by the Ministry of Finance, which were subject to the regulatory rules and guidelines issued by the Ministry of Finance. SFC had maintained close co-operation with the Ministry of Finance in regulating Mainland companies listed in Hong Kong.

Securities and derivatives markets

10. Pointing out that traditional funds had to face the challenges of international hedge funds in recent years, Mr CHIM Pui-chung enquired what measures would be taken to ameliorate the impact of international hedge funds on the Hong Kong stock market in order to protect the interests of investors.

11. SFST responded that major stock markets in the world operated in different environments and had their own characteristics. In view that a large number of retail investors actively participated in the Hong Kong stock market, the regulation policy aimed to strike a balance between ensuring the stability and development of the stock market and protecting the interests of investors.

12. Ms Starry LEE expressed concern about the volatility of the stock market, in particular the active trading in derivative financial products such as bull and bear contracts, and enquired whether steps would be taken to enhance the regulation of derivative financial products, including over-the-counter derivative products.

13. SFST responded that there was the observation that the securities market was volatile when there was active trading in the derivatives market. The Government and the regulatory bodies would seek to enhance the regulation of listed derivatives, through for instance enhancing the requirements on the collaterals for the derivative financial products, in order to reduce the counter-party risks. In line with the requirements of the G20, a regulatory regime would be put in place under which a trade repository would be

established for the reporting of over-the-counter derivative transactions and certain standardized over-the-counter derivative transactions would be required to be cleared through authorized central counterparties.

14. The Chairman remarked that the relevant securities associations had expressed concern about the impact of short-selling and futures trading on the volatility of the market, and requested that the Government should enhance the regulation of such activities.

15. SFST responded that the Government and the regulatory bodies regularly reviewed the measures to regulate short-selling and futures trading activities, and measures would be introduced to further enhance the regulation of such trading activities.

Mandatory Provident Fund system

16. Mr LEE Wing-tat expressed concern about the progress in implementing the Employee Choice Arrangement (ECA), and enquired whether ECA could be introduced in the second half of 2012 as scheduled.

17. SFST responded that the Mandatory Provident Fund Schemes Authority (MPFA) had been pressing ahead with the preparation for the implementation of ECA. The Government briefed the Panel in April 2011 on the legislative proposals for strengthening the regulation of MPF intermediaries, and published the consultation conclusions and detailed legislative proposals in July 2011. The Government planned to introduce the relevant bill into LegCo in the fourth quarter of 2011. Meanwhile, MPFA was adjusting its information technology systems to prepare for the implementation of ECA. Subject to the passage of the bill within the current LegCo term, MPFA aimed to commence ECA in the second half of 2012.

Measures of the Central Government to support Hong Kong

18. Mr Jeffrey LAM enquired about the time-table for implementing the measures announced by Vice-Premier Mr LI Keqiang in August 2011 to support the financial development of Hong Kong, including the development of Hong Kong as an offshore Renminbi settlement centre. Mr LAM pointed out that, with the increase in Renminbi deposits in Hong Kong, many small and medium sized enterprises (SMEs) had difficulties in obtaining loans in Hong Kong dollar from banks.

19. SFST responded that since the announcement of the Central Government's measures to support the financial development of Hong Kong in August 2011, the Government and the regulatory bodies had been pursuing the relevant measures with the Mainland authorities concerned. The Financial

Secretary (FS) would lead a delegation of representatives of the relevant Government bureaux and regulatory bodies to visit Beijing shortly to follow up the issues. Meanwhile, announcements had been made regarding the Foreign Direct Investment (FDI) measures and offshore Renminbi trade settlement arrangements. SFST pointed out that the increase in Renminbi deposits mainly stemmed from new sources and deposits in Hong Kong dollar did not record significant changes. There might not be a direct relationship between the amount of Hong Kong dollar deposits and loans granted to SMEs. The Government and Hong Kong Monetary Authority would continue to closely monitor the operation of banks, including the credit policy of the banks.

Macro-economic situation

20. Mr WONG Ting-kwong enquired whether the Government had made any assessment of the impact on Hong Kong's economy and inflation situation if the European sovereign debt problem worsened, and what measures the Government would take to meet the challenges arising from the problem.

21. SFST responded that the Chief Executive had included in the Policy Address remarks on the short and long term economic outlook and measures to strengthen the economy. FS would include in the Budget for the coming year the forecast on Hong Kong's economy and measures to meet the different challenges. Meanwhile, the Government would remain vigilant on various fronts and keep prepared for possible challenges.

22. The Deputy Chairman enquired about the risk of an economic downturn in the first half of 2012, and the impact of the European sovereign debt problem on Hong Kong's economy and small investors. SFST remarked that as revealed by divergent economic indicators, the economic situations in the US and Europe had a lot of uncertainties, and the sovereign debt problem in Europe was very complicated. The tightening of the credit policy of banks in Europe and the US would also have an adverse impact on Hong Kong's exports. In view of the uncertain external economic environment, the Government, the Hong Kong Monetary Authority and SFC had taken steps to ensure the stability of the banking sector and the security market. Small investors should keep vigilant of the market situation, and be prudent in their investments and risk management.

\$6,000 Scheme

23. Ms Starry LEE asked whether the eligible persons, in particular the elderly, could receive the money under the \$6,000 Scheme earlier than scheduled. SFST replied that the Government aimed to disburse the money to

the eligible persons as soon as possible, and the first disbursement, covering persons aged 65 or above, might be advanced from early November to late October 2011.

Relocation of offices

24. Mr KAM Nai-wai enquired about the plan to re-locate the offices of SFC and Hong Kong Exchanges and Clearing Limited (HKEx) to the redeveloped site of the West Wing of the former Central Government Offices. SFST responded that at present SFC was accommodated in leased premises, and a permanent office would facilitate SFC to devise its long term development plan and enhance the image of Hong Kong as an international financial centre. As the relocation plan was still at the very preliminary stage of planning, and was related to the overall preservation plan for Central district, details of the relocation plan were not available at this stage.

New policy for resumption of Home Ownership Scheme

25. Referring to the new policy for the resumption of the Home Ownership Scheme (HOS) announced in CE's Policy Address, Mr Paul CHAN sought the following information:

- (a) the amount of revenue received in the past from premium payments arising from transactions of HOS flats;
- (b) the estimated amount of revenue foregone as a result of the change in the calculation of the premium payment as announced in the Chief Executive's Policy Address; and
- (c) a comparison of the amount of subsidy for individual public rental housing units and HOS flats based on the pricing and resale policy for new HOS announced in the Policy Address.

26. SFST advised that the HOS fell within the purview of the Transport and Housing Bureau (THB) and the financial matters in respect of the HOS were managed by the Housing Authority independently. He undertook to convey Mr CHAN's request to THB/Housing Authority.

(Post-meeting Note: The Administration's response was issued to members vide LC Paper No. CB(1)240/11-12 on 1 November 2011.)

II Any other business

27. There being no other business, the meeting ended at 11:45 am.

Council Business Division 1
Legislative Council Secretariat
1 December 2011