

(Revised)

For discussion
on 15 May 2013

EC(2013-14)3

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 retention of the following supernumerary directorate post in the Financial Services and the Treasury Bureau (Financial Services Branch) for a period of about 24 months from 15 October 2013 to 31 October 2015 –

1 Administrative Officer Staff Grade C
(D2) (\$133,150 - \$145,650)

PROBLEM

The existing supernumerary Administrative Officer Staff Grade C (AOSGC) (D2) post in the Financial Services Branch (FSB) of the Financial Services and the Treasury Bureau (FSTB) will lapse on 15 October 2013. Retention of this post is required to provide continued directorate support to complete the current legislative and related work in relation to, among other things, the establishment of an independent Insurance Authority (IIA) and Policyholders' Protection Fund (PPF).

PROPOSAL

2. We propose to retain the supernumerary AOSGC post in FSB under FSTB for a period of about 24 months from 15 October 2013 to 31 October 2015 to cope with the workload arising from preparing legislation for the establishment of the IIA and PPF and the transition to a statutory licensing regime for insurance intermediaries under the IIA.

/JUSTIFICATION

JUSTIFICATION

3. The proposed establishment of an IIA and PPF are the most significant reform proposals for the insurance industry in the past ten years. Having regard to the scale and complexity of the exercise, the Finance Committee approved on 15 April 2011 the creation of one supernumerary AOSGC post in FSB (designated as Principal Assistant Secretary (Financial Services) Special Duties (PAS(FS)SD)) for 30 months from 15 April 2011 to 14 October 2013. The Administration has reviewed the operational needs of the post and considered it necessary to retain the post to provide policy inputs to the work as elaborated in the ensuing paragraphs.

Legislative work and establishment of IIA

4. We aim to set up the IIA in order to align with international practice that financial regulators should be financially and operationally independent of the Government, modernise the insurance industry regulatory infrastructure to facilitate the stable development of the industry, and provide better protection for policyholders. Our plan is to introduce a bill to amend the Insurance Companies Ordinance (Cap. 41) into the Legislative Council (LegCo) in 2013 with a view to setting up the IIA in 2015. For establishing the IIA by 2015, the Administration will need to assess and work out a wide range of detailed arrangements pertaining to the organisation structure, governance framework, licensing arrangements for insurance intermediaries, regulatory duties and transitional issues in respect of the IIA for inclusion in the amendment bill against a very tight timeline.

5. In addition to taking forward the primary legislation, we also need to prepare a set of subsidiary legislation and practice guidelines before the IIA is formally set up. For example, the bill itself will only lay down the broad principles of conduct requirements (i.e. acting honestly, fairly and competently in the best interest of existing or potential policyholders) to be observed by licensed insurance intermediaries, and the details will be promulgated in subsidiary legislation. In preparing the subsidiary legislation and guidelines, we need to look into relevant overseas and local experiences in order to ascertain whether certain overseas practices may be applicable to Hong Kong and ensure that the proposed requirements are largely consistent with those set up by other local financial regulators.

6. Apart from legislation, we also need to prepare the groundwork for establishing the IIA. As far as organisational setup is concerned, we will have to recruit the senior executives of the IIA, prepare appointment of members to the governing board of IIA, other committees and the Insurance Appeals Tribunal, etc.

7. Under our proposal, we will set up a statutory regime for licensing insurance intermediaries to replace the current self-regulatory regime. As there are more than 70 000 intermediaries currently registered with the three self-regulatory organisations, we need to plan meticulously to ensure a smooth transition from the existing regime to the new one.

PPF

8. There is currently no general compensation scheme for insurance policies in Hong Kong^{Note}. The international financial crisis in 2008-2009 has highlighted the need for a compensation fund for policyholders in the event of insurer insolvency. We are proposing to establish a PPF to maintain market stability and better protect the interest of policyholders by providing them with a safety net in the event of insurer insolvency. The establishment of a PPF will also strengthen policyholders' confidence in the local insurance industry.

9. We are preparing the enabling legislation for establishing the PPF and have continued to engage stakeholders in the process. We aim to introduce a bill into the LegCo in the 2013-14 legislative session. The bill will set out details related to the development of a cost effective and publicly acceptable funding model for the PPF and an efficient mechanism for distributing compensation to policyholders.

Other duties

10. PAS(FS)SD's duties also include engaging the insurance industry on the introduction of a risk-based capital framework for the prudential regulation of insurers.

Retention of the post of PAS(FS)SD

11. Having regard to the scale, complexity and sensitivity of the IIA and PPF proposals, there is a need for a full-time dedicated AOSGC officer to oversee the related legislative work and coordinate with stakeholders and government departments to prepare for the establishment of the IIA and PPF.

/12.

^{Note} There are sector-specific compensation schemes in place for non-life insurance policies covering motor vehicle third party claims and employees' work-related injuries. These types of insurance policies are mandated by statute. If an insurer of these compulsory policies becomes insolvent, compensation is paid to policyholders or third party claimants in respect of claims under the policies.

12. As we are engaging the industry and fine-tuning our proposals in response to industry feedback, the need for a longer duration of the post could not have been anticipated at the time the post was created two years ago. In light of the stakeholders' views on the IIA and PPF proposals and the latest progress of our work, we have reviewed the continued need for the PAS(FS)SD post and concluded that the post should be retained in order to take forward the work related to the establishment of the IIA and PPF. Given the timeframe of these exercises, we propose to retain the post of PAS(FS)SD for about 24 months from 15 October 2013 to 31 October 2015. We aim to complete the legislative work mentioned above within the proposed retention period, but will monitor the progress and review nearer the time whether further retention of the post is required. The proposed job description of PAS(FS)SD is at Enclosure 1.

Encl. 1

Non-directorate support

13. PAS(FS)SD will be supported by a team of four time-limited non-directorate officers, comprising one Senior Administrative Officer, one Administrative Officer, one Personal Secretary I and one Assistant Clerical Officer.

ALTERNATIVES CONSIDERED

14. We have considered whether the duties of PAS(FS)SD can be absorbed by other colleagues in FSB upon lapsing of the post on 15 October 2013.

15. There are at present seven other PAS(FS)s in FSB overseeing different policy areas including securities and futures, banking, mandatory provident funds (MPF), insolvency and accountancy, rewriting of the Companies Ordinance and trust law reform, and Mainland-related measures on financial services. All of them are fully committed to other policy initiatives and legislative exercises which are significant to the development of financial services sector in Hong Kong. Regarding legislative work, FSB is preparing to introduce legislation for the regulation of over-the-counter derivative financial products, implementation of the scripless securities markets, improvement of the corporate insolvency regime, regulation of stored value facilities and retail payment systems, subsidiary legislation for the new Companies Ordinance, and subsidiary legislation for Basel III regulatory rules. FSB is also seeking to implement measures that aim to enhance the MPF Schemes and consolidate Hong Kong's position as an offshore Renminbi centre. It will not be viable to redeploy other PAS(FS)s to take up the proposed duties of PAS(FS)SD without prejudicing the delivery of policy initiatives and legislative exercises under their respective portfolios. An organisation chart of the FSB is at Enclosure 2 and the existing job descriptions of all other PAS(FS)s are at Enclosure 3.

Encl. 2

Encl. 3

FINANCIAL IMPLICATIONS

16. The proposed retention of the supernumerary directorate post will bring about an additional notional annual salary cost at mid-point of \$1,696,200. The additional full annual average staff cost, including salaries and staff on-cost is \$2,427,000.

17. As for the four non-directorate civil service posts supporting PAS(FS)SD referred to in paragraph 13 above, the notional annual salary cost at mid-point is \$2,436,060 and the full annual average staff cost, including salaries and staff on-cost, is \$3,274,000.

18. We have included sufficient provision in the 2013-14 draft Estimates and will include the necessary provision in the 2014-15 and 2015-16 draft Estimates to meet the cost of the proposal.

PUBLIC CONSULTATION

19. The LegCo Panel on Financial Affairs was consulted on 8 April 2013. Members supported the proposed retention of the supernumerary post.

ESTABLISHMENT CHANGES

20. The establishment changes in FSB for the past two years are as follows –

Establishment (Note)	Number of posts		
	Existing (as at 1 April 2013)	As at 1 April 2012	As at 1 April 2011
A	12 + (5) [#]	12 + (4)	12 + (3)
B	65	65	63
C	87	87	89
Total	164 + (5)	164 + (4)	164 + (3)

/Note

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 April 2013, there was no unfilled directorate post in FSB

CIVIL SERVICE BUREAU COMMENTS

21. The Civil Service Bureau supports the proposed retention of the supernumerary directorate post. The grading and ranking of the post are considered appropriate having regard to the level and scope of responsibilities.

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

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

Financial Services and the Treasury Bureau
May 2013

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

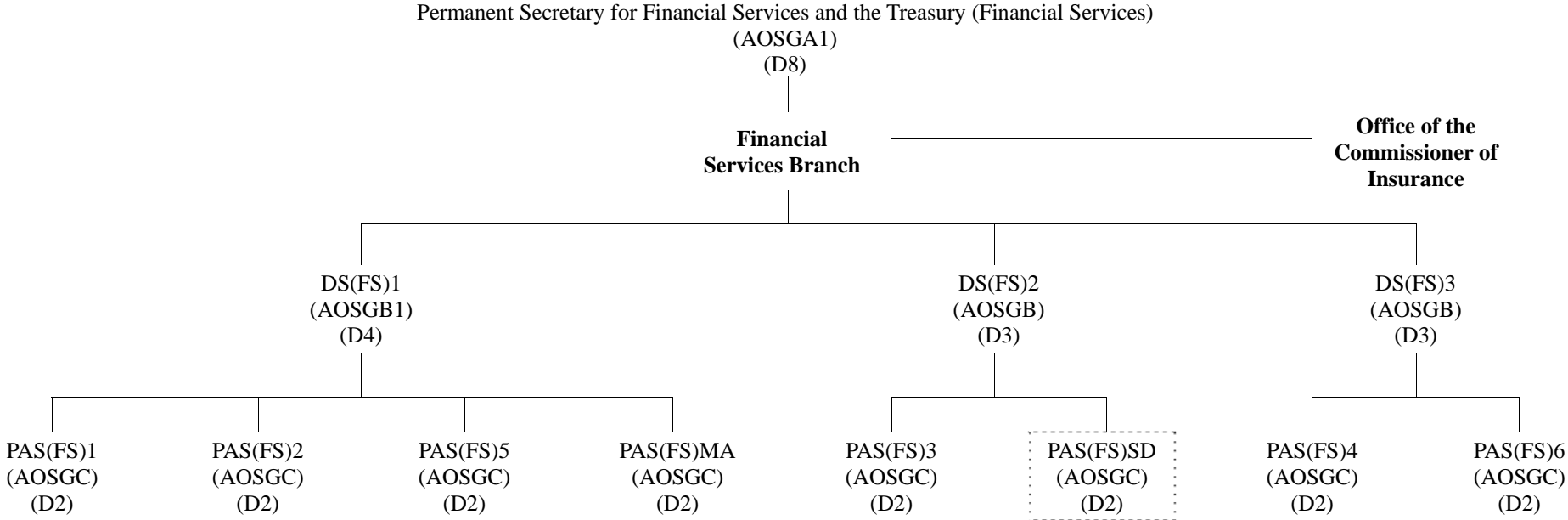
Rank : Administrative Officer Staff Grade C (D2)

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

Main Duties and Responsibilities –

1. To engage the industry and other stakeholders in the formulation of the detailed proposals on the establishment of an independent Insurance Authority (IIA) and a Policyholders' Protection Fund (PPF) and work with the industry on the detailed transitional arrangements for the establishment of the IIA.
2. To prepare the detailed legislative proposals on the establishment of an IIA and a PPF, and oversee the drafting of the bills and the legislative process.
3. To handle corporate governance and high-level staffing matters in setting up an IIA, including formation of its governing board and advisory committees, and recruitment of its chief executive officer and other senior executives.
4. To provide policy support to the Office of the Commissioner of Insurance (OCI) in handling staff issues arising from the abolition of OCI upon establishment of an IIA.
5. To complete the necessary preparatory work (including the set-up of a provisional office as necessary and seeking funding support from the Finance Committee) for the IIA; and the legislative work on the subsidiary legislation with a view to enabling commencement of operation of an IIA in 2015.
6. To undertake any other duties as assigned by DS(FS)2.

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



Legend

- Supernumerary directorate post to be retained
- AOSGA1 – Administrative Officer Staff Grade A1
- AOSGB1 – Administrative Officer Staff Grade B1
- AOSGB – Administrative Officer Staff Grade B
- AOSGC – Administrative Officer Staff Grade C
- DS(FS) – Deputy Secretary for Financial Services and the Treasury (Financial Services)
- 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 in the securities and futures markets and the development of the asset management industry. 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, provides secretariat support for the Process Review Panel for SFC, and coordinates among the financial regulators on risk management matters.

2. PAS(FS)2 is responsible for listing-related matters and liaison with the Hong Kong Exchanges and Clearing Limited. He/She works on the proposed legislation on the regulation of over-the-counter derivative market to implement the G20's commitment and a scripless securities market in Hong Kong. He/She also handles matters relating to the development of the commodities market in Hong Kong.

3. PAS(FS)3 oversees policy and legislative matters over the Mandatory Provident Fund (MPF) Schemes and the Occupational Retirement Schemes. His/Her portfolio covers all MPF-related matters, including the housekeeping matters of the Mandatory Provident Fund Schemes Authority. He/She also handles housekeeping matters of the Census and Statistics Department.

4. PAS(FS)4 oversees an exercise to improve Hong Kong's corporate insolvency law and is responsible for formulating the proposal on the introduction of a new corporate rescue procedure. He/She also oversees public and legislative matters concerning the accountancy profession, and assists in handling insolvency policy and administration and corporate governance of non-listed companies. He/She also deals with housekeeping matters of the Official Receiver's Office and the Financial Reporting Council (FRC), and provides secretariat support for the Process Review Panel for FRC.

5. PAS(FS)5 is responsible for the review and maintenance of the Banking Ordinance including implementation of Basel III, 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,

electronic retail payments, anti-money laundering for financial institutions, resolution regime for financial institutions 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, Organization for Economic Co-operation and Development and the Financial Action Task Force on Money Laundering.

6. PAS(FS)6 deals with policies and legislation relating to companies and trusts. He/She co-ordinates the work relating to the new Companies Ordinance as well as the review of the Trustee Ordinance. He/She also deals with the housekeeping matters of the Companies Registry.

7. PAS(FS)MA coordinates the implementation of new measures by the Central People's Government (CPG) announced in August 2011 to support the economic and social development in Hong Kong. He/She also oversees the financial co-operation with the Mainland at the CPG and regional levels as a strategic goal under the National 12th Five-Year Plan as well as the development of offshore RMB business in Hong Kong.
