

**Legislative Council Panel on Financial Affairs
Follow-up to Meeting on 3 May 2013**

**Supplementary Information on
Review of Statutory Fees and Charges
of the Official Receiver's Office**

Purpose

On 3 May 2013, the Administration briefed Members on the proposal to revise the fees, charges and deposits payable to the Official Receiver ("OR") under the Bankruptcy Ordinance (Cap. 6) and the Companies Ordinance (Cap. 32) in relation to the provision of insolvency-related services. Members requested the Administration to explore possible measures to assist debtors who could not afford the cost of \$9,695 for applying for bankruptcy with reference to similar measures in other jurisdictions. This note sets out the Administration's response.

Background

2. At present, the Bankruptcy Rules (Cap. 6A) stipulate that the deposit payable to the OR in the case of a debtor's petition for bankruptcy is \$8,650. This is to cover the costs and expenses of the OR such as the costs of publishing the bankruptcy notices in the Gazette and in the newspaper, as well as the costs for conducting bankruptcy investigation. As part of the current plan to revise the statutory fees, charges and deposits payable to OR, the deposit is proposed to be reduced from \$8,650 to \$8,000. This will revert the level of deposit back to the level prior to the last fee revision exercise in 1997. If the fee proposals on deposits together with other statutory fees and charges come into effect in June 2013, the projected cost recovery rate of the OR for 2013-14 will be around 100%.

3. Besides the deposit of \$8,650 payable to OR, the petitioner will also need to pay \$1,045 for setting down for hearing for a bankruptcy petition. This fee is payable to the Judiciary and is not included in the current fee revision exercise.

Overseas Practices

4. According to the insolvency offices of the United Kingdom (UK) and Singapore, a debtor who wishes to petition for bankruptcy in these two jurisdictions would also need to make a deposit with the Insolvency Service of the UK or the Insolvency and Public Trustee's Office of Singapore upon presentation of the petition. Neither of the two jurisdictions provide for a separate statutory mechanism to charge certain categories of persons (e.g. the elderly or low-income persons) a lower deposit or to waive the deposit for such persons.

The Administration's response

5. In Hong Kong, it is government policy that fees charged by the Government should in general be set at levels adequate to recover the full cost of providing the services. To achieve this, the level of statutory fees, charges and deposits for administering bankruptcy and winding-up cases is determined with reference to the full costs incurred by OR in the provision of insolvency-related services. This ensures that the costs for providing the insolvency services do not fall on the general tax-payers. If the fees are insufficient to cover cost, the Government will have to use taxpayers' money to subsidize individual users of government services. This may not be fair to the general taxpayers.

6. Besides, it is very difficult to design a fair reduction/waiver mechanism, noting that most if not all persons who petition for bankruptcy may claim affordability problem. Therefore, taking into

account the overseas practices mentioned in paragraph 4 above, we do not intend to consider a separate statutory mechanism to charge certain categories of persons (e.g. the elderly or low-income persons) a lower deposit or to waive the deposit in self-petitioned bankruptcy cases. The cost of applying for bankruptcy should be borne by debtors themselves and the need for subsidy by public money should be avoided as far as possible.

7. In this regard, the Hong Kong Institute of Certified Public Accounts and the Hong Kong Association of Banks have expressed concerns to us that reducing the deposit amount may encourage people to pursue the bankruptcy route. Our proposal seeks to strike a reasonable balance in addressing these different concerns in order to provide an effective recourse to bankruptcy proceedings.

Financial Services and the Treasury Bureau
Official Receiver's Office
24 May 2013