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**BY FAX (2799 7290)**

13 June 2014

Dr Hon Fernando CHEUNG Chiu-hung  
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Dear Dr CHEUNG,

Thank you for your letter dated 11 June 2014. In your letter, you asked me to further explain my legal advice given in my letter dated 5 June 2014 in reply to your enquiry dated 3 June. You also put forward your understanding and questions on whether the Finance Committee ("FC") Chairman has the power to "draw a line".

**The power of the FC Chairman to "draw a line"**

As to whether the FC Chairman has the power to "draw a line", I already set out my legal advice in my letter dated 5 June. The legal principle referred to in the fourth paragraph of the letter is applicable generally to persons acting in the capacity as chairmen. On the basis of that principle, they may exercise certain powers which are not explicitly provided but are reasonably necessary under the circumstances. As regards the criteria which the FC Chairman should adopt in exercising the

power to "draw a line" in accordance with the said legal principle, I have already set out my view in the fifth paragraph of the letter.

In respect of practical application, I have also mentioned in the letter dated 5 June how the FC normally handles members' questions and the usual practice of the FC Chairman, and how he could keep proper control of the progress of meetings pursuant to such practice when he considers it necessary.

### **Paragraphs 32, 37A and 46 of the Finance Committee Procedure**

With regard to your enquiry about the relationship between paragraphs 32, 37A and 46 of the Finance Committee Procedure ("FCP") and the exercise of the Chairman's power to handle members' questions, my opinions based on legal analysis are as follows.

Paragraph 32 of the FCP is substantially the same as the provisions of Order No. 34(1) of the Standing Orders of the pre-1997 Legislative Council and Rule 45(1) of the Rules of Procedure ("RoP"). Paragraph 32, which explicitly provides for the power exercisable by the Chairman in maintaining order at meetings, provides that the FC Chairman may direct a member who persists in irrelevance or tedious repetition of his own or other members' arguments in the discussion to discontinue his speech. This goes side by side with Rule 45(2) of the RoP, which empowers the Chairman of any committee (including the FC Chairman) to order a Member whose conduct is grossly disorderly to withdraw from a meeting. This requirement does not affect the power of the FC Chairman to "draw a line" in respect of an agenda item for the effective discharge of his duty of chairing meetings.

Paragraph 37A of the FCP was formulated by the FC on 3 November 2007 to put in place a procedure under which FC members may ask the FC to express a view in the name of the FC by passage of a motion. In keeping control of the progress of meetings, it is a normal practice for the FC Chairman to "deal with motions of this kind towards the end of the deliberation of the relevant agenda item, so that members could take into account all the relevant information and views provided/expressed during the discussion in making decisions on these

motions" (see paragraph 10 of LC Paper No. FC125/11-12(01)). This arrangement has nothing to do with whether an individual agenda item has been adequately discussed by members.

Paragraph 46 of the FCP was first formulated in November 1995, which was then paragraph 43 of the FCP. As no member would be allowed to ask questions once an agenda item was put to vote by the FC Chairman, this procedure was added as a special arrangement to avoid the situation where those members who had not indicated their intention to ask questions for one reason or another when the FC Chairman announced the commencement of the voting procedure would lose the opportunity to do so. As such, paragraph 46 of the FCP, which requires the FC Chairman to ask members if they have any further questions before voting takes place, serves to ensure that members do not miss the final opportunity to ask questions or express their views. This is in line with the case when the President asks if any other Member wishes to speak before voting takes place during a motion debate at a meeting of the Council. Whether or not the FC Chairman would allow members to put further questions would depend on the circumstances of each case. But generally speaking, the Chairman will ensure that every member has the opportunity to ask questions or speak. Same as paragraph 32, this provision does not affect the power of the FC Chairman to "draw a line" in respect of an agenda item for the effective discharge of his duty of chairing meetings.

Yours sincerely,

(Jimmy MA)  
Legal Adviser of the Legislative Council

c.c. Clerk to the Finance Committee