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**BY FAX (2799 7290)**

5 June 2014

Dr Hon Fernando CHEUNG Chiu-hung  
Room 1017  
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Central, Hong Kong

Dear Dr CHEUNG,

Regarding the question you raised in your letter dated 3 June 2014 on whether the Chairman of the Finance Committee ("FC") has the power to "draw a line" to end a discussion on an agenda item, my reply is as follows.

**The FC Chairman's function of chairing meetings**

In accordance with Rule 71(4) of the Rules of Procedure ("RoP") and paragraph 1 of the Finance Committee Procedure ("the FC Procedure"), the functions of the FC are those conferred upon the Committee by the Public Finance Ordinance (Cap. 2), any other law and the RoP of the Legislative Council ("the Council"), and such as may from time to time be referred to the Committee by the Council. These functions include examination of the Estimates of Expenditure presented in accordance with Rule 67 of the RoP and referred by the President of the Council in accordance with Rule 71(11) of the RoP; and approving proposals to change the approved Estimates of Expenditure presented by the Financial Secretary in accordance with section 8(1) of the Public Finance Ordinance.

In accordance with Rule 71(2) of the RoP and paragraph 4 of the FC Procedure, the Chairman and Deputy Chairman of the FC shall be elected by and from among its members. The FC Chairman has the power to determine the date, time and place of meetings. According to paragraphs 13 and 46 of the FC Procedure, the Chairman shall chair FC meetings, and before putting an item to the vote, the Chairman shall ask members if they have any further questions.

There are no explicit provisions in the RoP and the FC Procedure on the power of the FC Chairman to "draw a line". However, from the legal perspective and in accordance with general legal principles, a person chairing a meeting as the chairman of a committee would, by necessary implication or for any purposes reasonably incidental to or consequential upon this function, have such powers as are reasonably necessary for the performance of such function.

As Legal Adviser to the Council, I am of the view that for the purpose of effectively discharging his duty of chairing meetings to ensure the orderly, fair and proper conduct of meetings, it is necessary for the FC Chairman to exercise proper control on the progress of meetings in a reasonable manner, so as to ensure the effective use of meeting time, and to avoid the situation where the proceedings would be prolonged to the extent of preventing the FC from properly exercising and discharging its functions.

### **The practice of FC for dealing with members' questions**

Regarding the questions on how the FC Chairman actually discharges his duties, and the practice he adopts for dealing with members' questions, I suggest that you might refer to paragraphs 12 to 14 of the papers (LC Paper Nos. FC50/09-10 and FC51/09-10) issued to members by the Clerk to the FC on 14 January 2010:

"12. It is the responsibility of the FC Chairman to chair meetings of FC in accordance with the RoP and FC Procedure. Although not explicitly provided, it is in line with the principles set out in the Handbooks for chairmen of committees that this responsibility should include ensuring that the business on the agenda is transacted in a proper and efficient manner, and that members have adequate

opportunities to take part in the deliberations of the committee (e.g. paragraphs 1.9(b) and 1.16 of the Handbook for Chairmen of Panels and paragraphs 1.8(b) and 1.14 of the Handbook for Chairmen of Bills Committees). Unlike the practice and procedure in some overseas legislatures such as the United Kingdom, there is no provision in the RoP which allows discussion or debate on a motion to be curtailed through the moving of a motion “That the question be now proposed”. Even in the case of the United Kingdom, the Chair may decide not to put the question if it appears to him that the motion is an abuse of the rules of the House or an infringement of the rights of the minority. Passage of such a closure motion requires support of no fewer than 100 Members of Parliament on a division being taken.

13. In the case of the Hong Kong Legislature, it is not uncommon that the Chairman of FC would advise members that the time allowed for each question in the third or fourth rounds is to be reduced and to indicate that he/she would want the discussion to come to a close after this last round of questions to be raised on an agenda item if it is considered by the Chairman that there has been adequate discussion on the item after taking into account the amount of time that has been spent on the item. The Chairman may also direct that certain information which is not available at the meeting be provided after the meeting, or the matter be referred to the relevant Panel(s) for follow up.

14. As regards the specific question of whether the Chairman has the power to “draw a line” to the effect that no member will be allowed to speak or ask questions after members who have indicated the intention to speak or ask questions have done so, the answer is that there is no provision in the RoP and the FC Procedure which gives the Chairman such power. However, as a matter of practice, the expression “draw a line” is just a jargon used to describe the Chairman’s indication that he/she would want the discussion to come to a close after having considered that there has been adequate discussion on the item after taking into account the amount of time that has been spent on the item."

According to the views of the former Clerk to the Council set out in the aforesaid papers, the duty of the FC Chairman is "ensuring that the business on the agenda is transacted in a proper and efficient manner, and that members have adequate opportunities to take part in the deliberations of the committee". When the FC is faced with a situation where certain Members deliberately seek to prolong the proceedings of the Committee, a reasonable practice that may be adopted is to agree on a reasonable timeframe and a proper procedure through discussion for completing the relevant deliberation. After multiple rounds of questions from members, if the Chairman considers that members have already had adequate discussion on the item, he will advise members that the time allowed for each question will be reduced and indicate his intention of ending the discussion after the last round of questions on the agenda item.

Yours sincerely,

(Jimmy MA)  
Legal Adviser

c.c. Clerk to the Finance Committee