

立法會
Legislative Council

LC Paper No. CB(1)919/15-16
(These minutes have been seen
by the Administration)

Ref : CB1/PL/FA/1

Panel on Financial Affairs

Minutes of meeting
held on Tuesday, 22 March 2016 at 8:30 am
in Conference Room 1 of the Legislative Council Complex

- Members present** : Hon NG Leung-sing, SBS, JP (Chairman)
Hon Christopher CHEUNG Wah-fung, SBS, JP (Deputy
Chairman)
Hon Albert HO Chun-yan
Hon CHAN Kam-lam, SBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Starry LEE Wai-king, JP
Hon CHAN Kin-por, BBS, JP
Hon Charles Peter MOK, JP
- Members absent** : Hon LEE Cheuk-yan
Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, GBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon LEUNG Kwok-hung
Hon James TIEN Pei-chun, GBS, JP
Hon Kenneth LEUNG
Hon Dennis KWOK
Hon SIN Chung-kai, SBS, JP

Public officers attending : Agenda Item III

Mr Patrick HO Chung-kei, JP
Deputy Secretary for Financial Services and the Treasury (Financial Services)

Mr Paul WONG Yan-yin
Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) 6

Agenda Item IV

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

Ms Ada CHAN
Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)2

Mr James SHIPTON
Executive Director, Intermediaries Securities and Futures Commission

Ms Christina CHOI
Senior Director, Investment Products Securities and Futures Commission

Ms Clara CHIU
Director, Licensing, Intermediaries Securities and Futures Commission

Mr Kenneth HUI
Senior Manager, Investment Products Securities and Futures Commission

Clerk in attendance : Ms Connie SZETO
Chief Council Secretary (1)4

Staff in attendance : Mr Hugo CHIU
Senior Council Secretary (1)4

Action

I Information papers issued since the meeting on 15 February 2016

(LC Paper No. CB(1)580/15-16 — Quarterly Report of the Securities and Futures Commission (October to December 2015)

LC Paper No. CB(1)613/15-16(01) — Report of the Steering Group on Financial Technologies)

Members noted the information papers issued since the regular meeting held on 15 February 2016.

II Date of next meeting and items for discussion

(LC Paper No. CB(1)686/15-16(01) — List of outstanding items for discussion)

2. Members agreed to discuss the following items proposed by the Administration at the next regular meeting scheduled for 11 April 2016:

(a) Strategies and measures to develop financial technologies; and

(b) Regulatory arrangements to tackle malpractices by financial intermediaries for money lending.

3. The Chairman suggested that the regular meeting scheduled for 3 May 2016, which would include the agenda item of "Briefing on the work of Hong Kong Monetary Authority ('HKMA')", be rescheduled to 23 May 2016 as the Chief Executive of HKMA would be on an official trip outside Hong Kong on the scheduled date. Members did not raise objection.

(Post-meeting note: Members were informed of the rescheduling of the regular meeting from 3 May to 23 May 2016 vide LC Paper No. CB(1)728/15-16 issued on 31 March 2016.)

III Retention of two supernumerary directorate posts in the Financial Services Branch of the Financial Services and the Treasury Bureau

(LC Paper No. CB(1)686/15-16(02) — Administration's paper on "Retention of two supernumerary directorate posts in Financial Services Branch of the Financial Services and the Treasury Bureau to spearhead policy and legislative matters relating to auditor regulatory reform, corporate rescue procedures, money lenders and related intermediary activities, Companies Ordinance, financial technologies and the Asian Infrastructure Investment Bank"

LC Paper No. CB(1)686/15-16(03) — Background brief on the retention of two supernumerary directorate posts in the Financial Services Branch of the Financial Services and the Treasury Bureau prepared by the Legislative Council Secretariat)

Briefing by the Administration

4. At the invitation of the Chairman, the Deputy Secretary for Financial Services and the Treasury (Financial Services) 3 ("DS(FS)3") briefed members on the proposal to retain two supernumerary directorate posts in the Financial Services Branch of the Financial Services and the Treasury Bureau ("FSTB") for two years, including an Administrative Officer Staff Grade B post (i.e. DS(FS)3), and an Administrative Officer Staff Grade C post (designated as Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) 6 ("PAS(FS)6")). DS(FS)3 said that the two posts would lapse on

1 January 2017. The Government had reviewed the operational needs and manpower requirements of FSTB in the coming two years, and considered it necessary to retain the two posts to take forward a number of key tasks, including reform of the regulatory regime for listed entity auditors, introduction of a new statutory corporate rescue procedure ("CRP"), review of regulatory arrangements to tackle malpractices of financial intermediaries for money lending, review of the new Companies Ordinance (Cap. 622), etc.

Discussion

Development of financial technologies

5. Mr Charles MOK expressed concern about the slow progress in the development of financial technologies ("fintech") in Hong Kong, and urged the Administration to take proactive actions to review relevant legislation to remove barriers hindering fintech development. As DS(FS)3 and PAS(FS)6 had a number of other duties, he expressed concern about their capabilities in promoting the development of fintech in Hong Kong. He further suggested that the Government should study the relevant experience of the United Kingdom and take the lead in applying fintech in government operations.

6. DS(FS)3 responded that the Government would implement measures to develop Hong Kong into a fintech hub and coordinate efforts of various regulators and the financial services industry in achieving the goal. To this end, HKMA, the Securities and Futures Commission and the Office of the Commissioner of Insurance would establish their respective dedicated platforms to enhance communication with the fintech community. Moreover, FSTB would keep abreast of fintech developments in the international arena and maintain close dialogue with the industry and other stakeholders on the subject.

Duties and work progress of the two posts

7. Noting that the job descriptions of the two supernumerary posts were similar, Mr Albert HO expressed concern about possible duplication in their duties, and sought elaboration on the division of work between the post holders. He also requested the Administration to report the work progress of the various tasks taken up by the two posts, especially the progress in enhancing regulation of financial intermediaries for money lending and introduction of a new CRP.

8. DS(FS)3 explained that the various tasks, especially the legislative exercises concerned which were complex and involved in-depth discussions with stakeholders, required teamwork so as to handle the different aspects of

the subject matters more effectively and efficiently. On the progress of individual tasks, DS(FS)3 said that the Bankruptcy (Amendment) Bill 2015 (which was the outcome of the review of the abscondee regime) had just been passed by the Legislative Council ("LegCo"), and the work of the Bills Committee on Companies (Winding Up and Miscellaneous Provisions) (Amendment) Bill 2015 (which aimed to improve the corporate insolvency law regime) was near completion. The public consultation on the proposals for auditor regulatory reform had been completed and the Administration had briefed the Panel on the consultation conclusions. The Government also planned to brief the Panel on the proposed measures to tackle malpractices of financial intermediaries for money lending in April 2016. As for CRP, the Government had reported the consultation outcome on the legislative proposals to the Panel. There were a few important issues that required further discussion with the industry and the legal sector. The Government's target was to introduce the amendment bills for the auditor regulatory reform and the new CRP into LegCo in the 2016-2017 legislative session and in 2017 or 2018 respectively.

9. Pointing out that stakeholder engagement was crucial to the legislative exercises, the Chairman asked why the duty was not mentioned in the job descriptions of the two posts in the Administration's paper. DS(FS)3 responded that stakeholder engagement was an integral part of every legislative exercise. He assured members that the post holders would, where necessary, consult the relevant stakeholders, including market participants and practitioners, as well as members of the public when taking forward their tasks.

10. Mr Jeffery LAM supported the Administration's proposal. Mr LAM and the Chairman sought details on the timetable for Hong Kong to join the Asian Infrastructure Investment Bank ("AIIB"). They expressed concern about the capability of PAS(FS)6 and inadequate manpower in FSTB for taking forward work in this area. Mr LAM further suggested that the Government should take proactive actions in attracting AIIB to establish its corporate treasury centre in Hong Kong.

11. DS(FS)3 responded that Hong Kong's participation in AIIB would bring about enormous business opportunities for the local financial services industry and other related sectors. The Government was discussing with AIIB a number of initiatives including Hong Kong's participation as a non-sovereign territory and using Hong Kong for certain operations of the Bank. The Government would endeavour to report the relevant developments to the Panel at an appropriate time. The Government would also strive to promote Hong Kong's financial and professional services to AIIB.

12. On manpower arrangements, DS(FS)3 said that different bureaux, departments (e.g. InvestHK) and authorities (e.g. HKMA) would have roles to play in promoting the development of the financial services industry in Hong Kong. Where necessary, FSTB would consider engaging relevant professional grade staff or arranging expert support from relevant authorities for providing dedicated technical support in specific areas, including AIIB-related matters.

Directorate establishment of the Financial Services Branch and work continuity

13. Mr CHAN Kam-lam and Mr Christopher CHEUNG expressed support for retaining the two supernumerary posts. Mr CHAN, Mr CHEUNG and the Chairman expressed concerns about work continuity and the arrangements for the incumbents of the two posts when the posts lapsed on 31 December 2018. Noting that many of the duties taken up by the two posts were ongoing in nature, they asked if the Administration would consider turning the two posts permanent.

14. DS(FS)3 emphasized that the proposal to extend the two posts for further two years was made after a careful review of the manpower requirements of FSTB. The Government was prudent in containing directorate establishment. If the present proposal was approved, FSTB would review the continued need of the two posts before their expiry having regard to the progress of the various tasks taken up by the post holders, including whether to apply to extend the duration of the posts further or turn them into permanent posts. In the event that the two posts were to lapse on 31 December 2018, the incumbents would be redeployed to take up other duties in bureaux and departments according to established civil service procedures. DS(FS)3 supplemented that the Government had set long-term policy targets and measures for the development of the financial services industry, and implementation of these policies would not be affected by staff movement.

15. Mr CHAN Kin-por asked whether the Administration had considered the option for the Deputy Secretary for Financial Services and the Treasury (Financial Services) 2 ("DS(FS)2") to take up some duties of DS(FS)3 as the work portfolio of DS(FS)2 would shrink after the establishment of the independent Insurance Authority ("IA") with enactment of the Insurance Companies (Amendment) Ordinance 2015. He further enquired about the work of the supernumerary post of Principal Executive Officer ("PEO") which was responsible for the administration of the Provisional Insurance Authority.

16. DS(FS)3 explained that DS(FS)2 needed to oversee the transition of the current regulatory regime of the insurance industry to the new regime, including preparation of the relevant subsidiary legislation for the operation of the new regime and IIA. The transitional period would last for more than two years. Furthermore, DS(FS)2 was responsible for legislative work for improving the Mandatory Provident Fund system. Given the heavy workload of DS(FS)2 in the coming two years, it would be impracticable for him to absorb DS(FS)3's duties. As regards the work of PEO, DS(FS)3 said that the supernumerary post had already been filled and the post holder had been providing administrative support to the Provisional Insurance Authority. FSTB could provide further details on the work of the PEO post if so requested by Members.

Conclusion

17. The Chairman concluded that Panel members did not object to the Administration submitting the proposal to the Establishment Subcommittee.

IV Exchange Distribution Platform for Funds

(LC Paper No. CB(1)686/15-16(04) — Paper on "Exchange Distribution Platform for Funds" provided by the Administration and Securities and Futures Commission)

Briefing by the Administration

18. At the invitation of the Chairman, Deputy Secretary for Financial Services and the Treasury (Financial Services)1 ("DS(FS)1") briefed members on the Government's analysis on the initiative of establishing an exchange distribution platform for funds ("EDPF") in Hong Kong, including the potential benefits and challenges. She said that the Government was supportive of the initiative to diversify the fund distribution channels in Hong Kong, thereby strengthening Hong Kong's position as an asset management centre, and would continue to liaise with the Securities and Futures Commission ("SFC"), the Hong Kong Exchanges and Clearing Limited ("HKEX") and the industry on the matter.

Discussion

Establishment of an exchange distribution platform for funds

19. Mr Christopher CHEUNG declared that he was the owner of a brokerage firm. He relayed the support of the financial services industry for establishing an EDPF in Hong Kong. He considered that the initiative would benefit investors in reducing the investment costs, brokers, the fund industry and HKEX in expanding their business; as well as complement the Mainland's policy in developing the financial markets and the Belt and Road Initiative. However, he was concerned about the indifferent attitude of HKEX towards the initiative as he noticed that HKEX's Strategic Plan for 2016-2018 had not included any plans to take forward the initiative. He enquired how the Administration would motivate HKEX in taking forward the initiative, and whether the Administration had other options in the event that HKEX had no interest on the matter.

20. Mr Andrew LEUNG expressed support for the initiative and enquired about the timetable of implementation.

21. DS(FS)1 concurred with members' views about the potential benefits of an EDPF for investors, brokers, fund industry and HKEX. She assured members that the Government accorded high priority to the initiative and would continue to liaise with SFC and HKEX in working out the details of implementation. On HKEX's participation, DS(FS)1 advised that HKEX would soon commence a phased replacement of its system for securities clearing and settlement. The Government understood that it was HKEX's plan to include within the blueprint of the replacement exercise new post-trade processing system capabilities that would support participants of the Hong Kong Securities Clearing Company Limited, its securities clearing house, in mutual fund-related trade and position handling. HKEX would issue a "request for information" on the replacement exercise to the market and invite views on how the relevant systems could be incorporated. On the regulatory side, SFC had set up an internal working group to examine related issues, including the need to clarify SFC's expectations of how the suitability requirements for fund distribution should be implemented in the context of exchange and online fund distribution platforms and formulate appropriate guidance for intermediaries as necessary. It was envisaged that the working group would put forward relevant proposals within 2016.

Features of the exchange distribution platform for funds

22. Noting that most of the centralized fund distribution platforms established in other financial markets only allowed primary subscriptions and redemptions of funds, Mr Andrew LEUNG asked whether the EDPF in Hong Kong would allow secondary trading of funds, which he considered could promote competition and benefit investors in driving down the transaction costs. Mr Christopher CHEUNG concurred with the view and added that an EDPF with secondary trading would provide convenience to investors.

23. DS(FS)1 responded that it was observed that most of the centralized fund distribution platforms established in other markets only handled primary subscriptions and redemptions of funds. This was because transactions of funds in Hong Kong and other financial markets were in general conducted in the primary market where fund prices used in primary subscriptions and redemptions were linked to the funds' net asset values. Investors were also more familiar with this approach. Senior Director (Investment Products), Securities and Futures Commission added that SFC had authorized over 2 000 funds, the majority of which were transacted in the primary market. Those traded in the secondary market, including the some 100 exchange traded funds listed on the Stock Exchange of Hong Kong, were mainly funds tracking price movements of designated baskets of stocks. Given the large number of funds authorized by SFC that could be distributed through the EDPF, it was envisaged that the platform could promote market development even if it only allowed primary distribution of funds.

24. While expressing support for the initiative to develop an EDPF in Hong Kong, Mr CHAN Kin-por stressed the need for the Administration to ensure a level playing field between banks and brokers in the distribution of funds, and the regulation of EDPF would not impose undue compliance costs on brokers. He enquired how the Administration would motivate brokers to utilize the EDPF, and whether it would make reference to the experience of other financial markets in promoting the EDPF.

25. DS(FS)1 responded that many brokers in Hong Kong welcomed the establishment of the EDPF, which could bring new business opportunities for the trade. Furthermore, the Government, SFC and HKEX would liaise with both brokers and fund managers to gauge their views on the system requirements of the EDPF in order to develop a platform that would cater for their operations. A possible measure was to standardize certain documentations for brokers' participation in the distribution of fund products through the platform. Regarding the training for industry practitioners, relevant training could be provided to brokers to enhance their capacity in

distribution of funds. The expenditure on the programme to enhance talent training for the asset and wealth management sector had been included in the Appropriation Bill 2016. Executive Director (Intermediaries), Securities and Futures Commission added that SFC had liaised with a number of organizations including the Hong Kong Securities and Investment Institute on the provision of relevant training programmes for market practitioners. The training programmes aimed to enhance the practitioners' knowledge of financial products and the relevant regulatory regime, and would be complementary to the establishment of an EDPF in Hong Kong.

Investor education on exchange-based distribution of funds

26. Noting that investors in Hong Kong had been accustomed to buying funds through banks, the Chairman enquired about the measures including investor education, the Administration would implement to enhance investors' understanding of the EDPF and change their behaviour in purchasing funds. He also enquired about the handling of disputes for transactions conducted through the EDPF.

27. DS(FS)1 stressed that investors were free to choose the channels for purchasing funds. It was envisaged that investor education on the operation and features of the EDPF and the investment risks of products distributed through the platform would be provided in due course. The Government would liaise with the Investor Education Centre and other stakeholders on investor education. Regarding the handling of disputes arising from transactions conducted through the EDPF, DS(FS)1 advised that there were established mechanisms to handle disputes arising from financial transactions, including mediation through the Financial Dispute Resolution Centre.

Conclusion

28. The Chairman concluded that members in general supported the establishment of an EDPF in Hong Kong.

V Any other business

29. There being no other business, the meeting ended at 9:50 am.