立法會
Legislative Council

LC Paper No. CB(1)788/16-17
(These minutes have been seen by the Administration)

Ref : CB1/PL/FA/1

Panel on Financial Affairs

Minutes of policy briefing cum meeting held on Monday, 6 February 2017 at 9:00 am in Conference Room 1 of the Legislative Council Complex

Members present : Hon Christopher CHEUNG Wah-fung, SBS, JP (Chairman)
Hon Kenneth LEUNG (Deputy Chairman)
Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, GBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon CHAN Kin-por, BBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon Frankie YICK Chi-ming, JP
Hon WU Chi-wai, MH
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon KWOK Wai-keung
Hon Dennis KWOK Wing-hang
Dr Hon Fernando CHEUNG Chiu-hung
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon CHAN Chun-ying
Hon Tanya CHAN
Hon LUK Chung-hung
Dr Hon YIU Chung-yim

Members absent : Hon Starry LEE Wai-king, SBS, JP
Hon CHU Hoi-dick
Dr Hon Junius HO Kwan-yiu, JP
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon Kenneth LAU Ip-keung, MH, JP

Public officers attending : Agenda Item IV

Mr Norman T. L. CHAN, GBS, JP
Chief Executive
Hong Kong Monetary Authority

Mr Eddie YUE, JP
Deputy Chief Executive
Hong Kong Monetary Authority

Mr Arthur YUEN, JP
Deputy Chief Executive
Hong Kong Monetary Authority

Mr Howard LEE, JP
Senior Executive Director
Hong Kong Monetary Authority

Agenda Item V

Prof K C CHAN, GBS, JP
Secretary for Financial Services and the Treasury

Mr Andrew WONG, JP
Permanent Secretary for Financial Services and the Treasury (Financial Services)

Ms Elizabeth TSE, JP
Permanent Secretary for Financial Services and the Treasury (Treasury)

Mr James LAU, JP
Under Secretary for Financial Services and the Treasury

Ms Mable CHAN, JP
Deputy Secretary for Financial Services and the Treasury (Financial Services)1

Mr Eddie CHEUNG, JP
Deputy Secretary for Financial Services and the Treasury (Financial Services)2

Mr Patrick HO, JP
Deputy Secretary for Financial Services and the Treasury (Financial Services)3

<u>Agenda Item VI</u>

Mr Eddie CHEUNG Kwok-choi, JP
Deputy Secretary for Financial Services and the Treasury (Financial Services)2

Miss Wendy CHUNG
Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)3

Mr CHENG Yan-chee
Chief Corporate Affairs Officer and Executive Director
Mandatory Provident Fund Schemes Authority

Ms Susanna LEE
Senior Manager (Intermediaries / ORSO Schemes)
Mandatory Provident Fund Schemes Authority

<u>Agenda Item VII</u>

Ms Mable CHAN, JP
Deputy Secretary for Financial Services and the Treasury (Financial Services)1

Mr Carlson TONG, SBS, JP
Chairman
Securities and Futures Commission

Mr Ashley ALDER, JP
Chief Executive Officer
Securities and Futures Commission

Mr Andrew WAN
Chief Financial Officer & Senior Director of Corporate Affairs
Securities and Futures Commission

Mr Paul YEUNG
Commission Secretary
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

Ms Sharon CHAN
Legislative Assistant (1)4

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I Confirmation of minutes of meeting and matters arising

(LC Paper No. CB(1)497/16-17 — Minutes of the meeting on 5 December 2016)

The minutes of the meeting held on 5 December 2016 were confirmed.

Action

II Information papers issued since the regular meeting on 3 January 2017

(LC Paper No. CB(1)403/16-17(01)	—	Submission dated 23 December 2016 from Oxfam on the Administration's public consultation on measures to counter Base Erosion and Profit Shifting (English version only) (Restricted to members)
LC Paper No. CB(1)441/16-17(01)	—	Email dated 15 January 2017 from a member of the public on the proposed Bank of Communications (Hong Kong) Limited (Merger) Bill (English version only) (Restricted to members)
LC Paper No. CB(1)467/16-17(01)	—	Fourth quarterly report of 2016 on "Employees Compensation Insurance — Reinsurance Coverage for Terrorism"
LC Paper Nos. CB(1)511/16-17(01) and (02)	—	Letter dated 29 December 2016 from Dr Hon Fernando CHEUNG on issues relating to the proposed plan on cash withdrawal without the purchase of goods at supermarkets and convenience stores (Chinese version only) and the Hong Kong Monetary Authority's response

2. Members noted the information papers issued since the regular meeting held on 3 January 2017.

Action

III Date of next meeting and items for discussion

(LC Paper No. CB(1)502/16-17(01) — List of outstanding items for discussion

LC Paper No. CB(1)502/16-17(02) — List of follow-up actions)

3. The Chairman said that members were informed earlier that the regular meeting for March would be re-scheduled to be held on Thursday, 16 March 2017 from 10:45 am to 12:45 pm. Members agreed to discuss the following items proposed by the Administration at the meeting:

(a) The independent Insurance Authority budget for the financial year 2017-2018;

(b) Proposed amendments to the Banking Ordinance (Cap. 155) to enable the implementation of international standards for banking regulation in Hong Kong; and

(c) Update on implementation of automatic exchange of financial account information in tax matters.

IV Briefing on the work of Hong Kong Monetary Authority

(LC Paper No. CB(1)502/16-17(03) — Paper provided by the Hong Kong Monetary Authority)

Briefing by the Hong Kong Monetary Authority

4. At the invitation of the Chairman, the Chief Executive, Hong Kong Monetary Authority ("CE/HKMA"), the Deputy Chief Executive (Banking)/HKMA ("DCE(B)/HKMA"), the Deputy Chief Executive (Monetary)/HKMA ("DCE(M)/HKMA") and the Senior Executive Director (Development)/HKMA updated members on the work of the Hong Kong Monetary Authority ("HKMA") through a powerpoint presentation. Topics included assessment of risks to Hong Kong's financial stability, banking supervision, financial infrastructure, development of the financial market, and investment performance of the Exchange Fund ("EF").

(*Post-meeting note*: The powerpoint presentation materials (LC Paper No. CB(1)524/16-17(01)) were issued to Members vide Lotus Notes e-mail on 6 February 2017.)

Discussion

Macroeconomic environment and policy uncertainties of the new administration of the United States

5. Mr Jeffrey LAM expressed concern about the risks arising from the policy uncertainties of the new administration of the United States ("US") on the local economy, including a possible reduction in the trade volume between Hong Kong and the US, the potential relocation of overseas companies and capital outflow from Hong Kong. He enquired how HKMA would prepare Hong Kong for such challenges, including measures it would take to address the financing needs of the small and medium-sized ("SME") enterprises. The Chairman echoed the concern and sought HKMA's assessment of the impact of the imminent US interest rate hikes and capital outflow from Hong Kong on the local financial and property markets.

6. CE/HKMA responded that the new US administration had yet to disclose the details of its proposed measures, but it was quite obvious that it would implement a protectionist trade policy. The new US President had signed executive orders to withdraw the US from some international trade agreements, while it was still uncertain whether the proposed tariff on imports from the Mainland would be implemented. If so, it would impede the bilateral trade between the US and the Mainland , and inevitably affect Hong Kong as a trade intermediary. In terms of fund flows, details of the US tax measures for encouraging US companies to repatriate overseas profits back to the US remained unclear, but it was envisaged that some of the funds might eventually go back to Asia through the banking system. As far as Hong Kong was concerned, while the measures of the new US administration and US interest rate hikes might lead to some capital outflow from Hong Kong, it was envisaged that the pace would be gradual given the large Monetary Base in Hong Kong currently. CE/HKMA and DCE(B)/HKMA further advised that HKMA had stepped up supervisory efforts on banks' liquidity risk management in recent years with a view to minimizing the potential impact of capital outflow, and had been conducting stress tests regularly. With the supervisory efforts of HKMA over the past few years, banks had put in place robust liquidity risk management systems to withstand liquidity stress.

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Banking stability and supervision

7. Mr WU Chi-wai noted with concern the rising trend of finance companies providing mortgage loans to customers with high loan-to-value ("LTV") ratio, and property developers offering high LTV ratio mortgages through finance companies. Given that finance companies and developers were not under HKMA's regulation, he was concerned that such activities would increase the risks to Hong Kong's financial stability and enquired how HKMA would tackle the problem.

8. Pointing out that the local mortgage loans had exceeded 44% of Hong Kong's Gross domestic product ("GDP") in 2016, Dr YIU Chung-yim enquired whether the figure had surpassed the safety benchmark on mortgage loans-to-GDP set by HKMA as stipulated in its guideline issued in 1996 ("the 1996 guideline"), and about measures HKMA had taken to manage the risks of various kinds of loans on the banking industry (such as setting relevant safety benchmarks for various kinds of loans), as well as monitor the impact of refinanced mortgage loans on banking stability.

9. Regarding the activities of finance companies in the property market, DCE(B)/HKMA advised that HKMA had required banks to terminate their credit relationship with finance companies if the latter had been found offering mortgages not in compliance with HKMA's prudential supervisory requirements. As the funding of these finance companies did not come from banks, risk on banking stability arising from the lending business of these finance companies was contained. DCE(B)/HKMA added that the mortgage loans provided by finance companies which had credit relationship with banks accounted for only a small portion of the total mortgage market. HKMA did not have the relevant data of those finance companies without credit relationship with banks. In relation to property developers, HKMA had also required banks to provide the relevant data of those property developers which offered mortgage loans with high LTV ratio and had credit relationship with the banks. Based on the data collected, the amount of mortgage loans provided by those property developers were still small, although such loans had been increasing.

10. As for the issue of mortgage loans-to-GDP ratio in Hong Kong, CE/HKMA advised that there was no safety benchmark as such. He added that in more general terms one should also interpret the debt-to-GDP ratio with caution as Hong Kong was an international financial centre, providing a platform for financial intermediation for corporations from all over the world. It was natural that a substantial portion of loans in Hong Kong were taken out by overseas companies, and these loans might not be used in Hong Kong or have direct

relationship with the local economy. HKMA adopted a risk-based supervisory approach in managing the credit risks of the banking industry. Taking banks' mortgage lending business as an example, HKMA required banks to conduct stress tests on borrowers' repayment ability having regard to their incomes and potential interest rate hikes, and to only provide mortgage loans to borrowers meeting the relevant requirements. CE/HKMA further remarked that to facilitate banks to better manage their credit risks, a new electronic notification mechanism was put in place to alert banks of any further mortgages registered at the Land Registry in respect of the properties which had been mortgaged to the banks' concerned. DCE(B)/HKMA supplemented that the 1996 guideline was an internal supervisory arrangement imposed by HKMA at that time requiring certain banks to limit mortgage lending to 40% of their total lending. However, HKMA subsequently implemented other supervisory measures to replace the 1996 guideline which was no longer applicable. He added that currently banks' mortgage loans amounted to about HK$1 trillion as compared with about HK$8 trillion of total loans for the banking sector as a whole.

11. Mr CHAN Chun-ying noted that while the classified loan ratio ("CLR") remained low at 0.81% in 2016, the figure might not reflect the asset quality of the banking industry as many loans in 2016 involved carry trade of Renminbi ("RMB") which were of relatively high asset quality. He sought HKMA's views on the trend of CLR in 2017 given that most RMB carry trade in Hong Kong should have already unwound in 2016.

12. DCE(B)/HKMA advised that CLR had remained at low levels in the past few years while HKMA had required banks to enhance their management of credit risks. He said that while it was difficult to predict the movement of CLR, HKMA had been monitoring changes in special mention loans ("SML") which could serve as a leading indicator of CLR. He pointed out that there was no significant increase in SML in recent years.

13. Mr CHAN Chun-ying enquired whether HKMA would consider relaxing regulatory requirements on banks in the light of likely measures to be introduced by the new US administration. CE/HKMA advised that the details of measures to be implemented by the new US administration remained unknown. He further explained that the regulatory regimes for the financial services sector in the US and Hong Kong were different. In Hong Kong, HKMA adopted a risk-based approach ("RBA") in banking supervision. As some regulatory requirements of the US were not applicable to Hong Kong, it was envisaged that the direct impact on Hong Kong's regulatory regime arising from any relaxation of the US banking regulation would be limited.

Provision of basic banking services

14. Mr WU Chi-wai enquired about the progress of the proposal allowing senior citizens to withdraw cash at designated outlets without the need for making purchase ("the cash withdrawal proposal") as mentioned in page 58 of HKMA's paper (LC Paper No. CB(1)502/16-17(03)), and the timetable of implementation.

15. CE/HKMA responded that a feasibility study regarding the cash withdrawal proposal was being conducted by the Hong Kong Association of Banks ("HKAB"). Currently, cash withdrawal could be made at over 2 000 outlets of various merchants upon making purchase. While he believed that the banking industry should be supportive of the cash withdrawal proposal in principle, the feasibility of the proposal would also depend on the assessment by the merchants (including supermarkets). HKAB was still engaging these merchants. HKMA would provide further update once the outcome of the feasibility study was available.

Development of financial technologies

16. Mr WU Chi-wai noted that HKMA had established the Fintech Supervisory Sandbox ("FSS") for banks to conduct pilot trials of their new financial technologies ("fintech") solutions. He asked whether banks adopting the same fintech initiative had to undergo the FSS process. CE/HKMA replied that as different banks had different operation systems, a successful fintech solution of a bank did not necessarily mean that the solution would also be successful for another bank. Hence, individual banks had to test their new fintech solutions, and FSS could facilitate their trials.

The property market

17. Mr Jeffrey LAM noted that since the new round of demand-side management measures introduced by the Government in November 2016 setting a new flat rate of 15% for the ad valorem stamp duty on residential property transactions, transaction volume in the local property market had fallen substantially. He was concerned that introducing demand-side management measures in an episodic manner might adversely affect the stability of the property market, resulting in a dramatic fall in the property price and a surge in the number of negative equities.

18. The Chairman enquired whether the continuous growth in the mortgage values in recent years had indicated that the demand-side management measures on the property market and countercyclical macroprudential measures implemented by HKMA were ineffective.

19. CE/HKMA responded that one should consider whether property mortgage loans would have grown at a faster pace if the Government and HKMA had not implemented the measures. He said that HKMA would closely monitor developments in the property market and implement appropriate measures to ensure banking stability.

The Exchange Fund

20. Mr CHAN Chun-ying enquired about measures to enhance the investment performance of EF, including whether HKMA would consider increasing EF's investment in alternative assets held under the Long-Term Growth Portfolio ("LTGP"), which enjoyed a relatively high annualized internal rate of return in recent years.

21. CE/HKMA responded that the investment environment had been heavily distorted by the ultra-low interest rates and quantitative easing by some major economies in recent years. The process of US interest rate normalisation had begun and would affect capital flows and asset markets. When the US interest rates returned to more normal levels, interest income on bonds and cash would be higher, which should be a positive factor to EF's investment return in the medium term. In terms of investment diversification, he said that given the statutory objective of EF to maintain monetary and financial stability, it was important for EF's investment in alternative assets to increase in a measured manner because these assets were of lower liquidity. In the past few years, as part of its efforts in investment diversification, HKMA had been steadily increasing its investment in alternative assets under LTGP, with the market value of LTGP assets amounting to more than HK$170 billion and the outstanding investment commitments over HK$130 billion at the end of 2016. Going forward, HKMA would continue to expand investments under LTGP, especially given the placement of the Future Fund.

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V Briefing by the Secretary for Financial Services and the Treasury on the Chief Executive's 2017 Policy Address

(LC Paper No. CB(1)459/16-17(04) — Administration's paper on 2017 Policy Address – Policy Initiatives of the Financial Services and the Treasury Bureau

— Address by the Chief Executive at the Legislative Council meeting on 18 January 2017)

Briefing by the Administration

22. The Secretary for Financial Services and the Treasury ("SFST") briefed members on the policy initiatives of the Financial Services and the Treasury Bureau ("FSTB") featured in the Chief Executive's 2017 Policy Address. He highlighted the following areas of work set out in the Administration's paper (LC Paper No. CB(1)459/16-17(04)):

(a) capitalizing on the opportunities arising from the implementation of the National 13th Five-year Plan and the Belt and Road Initiative through various measures, including promoting investments in infrastructure projects and their financing through the work of the Infrastructure Financing Facilitation Office, joining the Asian Infrastructure Investment Bank ("AIIB"), and further enhancing financial cooperation with the Mainland on various fronts;

(b) consolidating Hong Kong's position as a premier asset management centre by removing existing limitation in the legal structure as appropriate and broadening the variety and scope of Hong Kong's fund business;

(c) promoting the development of fintech in Hong Kong;

(d) amending the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap. 615) and the Companies Ordinance (Cap. 622) to enhance the regulatory regime to combat money laundering and terrorist financing ;

(e) amending the relevant legislation to improve the existing regulatory regime for listed entity auditors in order to enhance the independence of the regime from the audit profession;

(f) enforcing the new licensing conditions on money lenders and launching a new public education campaign for better protection of borrowers;

(g) enhancing the Mandatory Provident Fund ("MPF") System through various measures, including rolling out the fee-controlled Default Investment Strategy ("DIS") on 1 April 2017; and

(h) taking forward initiatives regarding Hong Kong's cooperation with the international community on tax matters including the implementation of automatic exchange of financial account information in tax matters and the package to tackle base erosion and profit shifting of enterprises, and continuing to expand Hong Kong's network of Comprehensive Avoidance of Double Taxation Agreements.

(*Post-meeting note*: The press release containing the speaking note of SFST (Chinese version only) was issued to members vide LC Paper No. CB(1)529/16-17(01) on 7 February 2017.)

Discussion

Financial Services Development Council and development of the financial services industry

23. Mr CHAN Chun-ying enquired about the resources to be provided to the Financial Services Development Council ("FSDC"), including whether the Administration would resubmit its proposal to the Legislative Council ("LegCo") to create a non-civil service position of Executive Director in FSDC ("the staffing proposal"). He also sought details of the work in promoting and enhancing the development of Hong Kong's offshore RMB business, and the progress in mutual recognition of funds with other jurisdictions.

24. SFST responded that the Government had all along been supportive of the work of FSDC. Although the Government had withdrawn the staffing proposal for the time being having regard to the views of some members of the Establishment Subcommittee, FSTB would continue to deploy its resources to support FSDC's work. He added that FSDC would collaborate with the Hong

Kong Trade Development Council ("HKTDC") leveraging the latter's solid promotional experience and extensive network in the Mainland and overseas with a view to organizing events and campaigns (e.g. road shows) to promote Hong Kong's financial markets and financial services industry. As regards the development of Hong Kong's offshore RMB business, SFST advised that while FSTB and HKMA would be responsible for formulating the relevant policy and enforcing the regulatory requirements, FSDC and HKTDC would help carry out relevant promotional and publicity activities. On the promotion of funds business, the relevant authorities would continue to seek to enter into agreements on mutual recognition of funds with other jurisdictions so as to broaden the market access of Hong Kong's fund business.

25. The Chairman expressed concern about the slow progress in taking forward the recommendations in FSDC's research reports. Moreover, he pointed out that FSDC had not recommended measures to enhance the competitiveness and promote the development of SME securities firms. On the other hand, he was concerned that some recommendations set out in FSDC's reports entitled "Strengthening Hong Kong as a Leading Global International Financial Centre" and "Positioning Hong Kong as an International IPO Centre of Choice" (such as the tightening of the clawback mechanism) might adversely affect the interests of retail investors and SME securities firms. The Chairman emphasized the importance for the Administration to step up effort in supporting the securities industry given the continuous decline in the number of SME securities firms in recent years.

26. SFST advised that the Government had implemented a number of recommendations put forward by FSDC, including those related to enhancing the Hong Kong taxation regime for open-ended fund companies and offshore private equity funds, promoting the development of asset management business and revitalizing the development of Hong Kong's real estate investment trusts market. Moreover, the Government was studying other recommendations made by FSDC, e.g. those in relation to taking forward the National 13^{th} Five Year Plan, and would devise policy measures as appropriate. He stressed that FSTB had been working closely with FSDC.

27. On the support for the securities industry, SFST remarked that the Government attached importance to enhancing the operating environment of SME securities firms. There were also representatives from the securities industry in FSDC. As observed, FSDC had put forward a number of recommendations relating to the securities industry. Concerning the report on "Positioning Hong Kong as an International IPO Centre of Choice", SFST advised that the Hong Kong Exchanges and Clearing Limited ("HKEX") had

been studying the recommendations in the report.. He appreciated that there were divergent views in the market regarding market development and regulation, and that the FSDC's report provided a good opportunity for discussion in the market.

Hong Kong's participation in the Asian Infrastructure Investment Bank

28. Mr CHAN Chun-ying and Mr WU Chi-wai sought details of Hong Kong's participation in AIIB, including the progress in joining and Hong Kong's role in AIIB, whether Hong Kong could become the corporate treasury centre ("CTC") of AIIB and whether dwindling in RMB liquidity pool in the recent months would have impacts on in Hong Kong's role in AIIB. Mr WU further enquired about the Administration's strategies in seeking AIIB's agreement to set up its CTC and financing centre in Hong Kong in view of the keen competition faced by Hong Kong.

29. SFST responded that Hong Kong had been officially invited to join AIIB as a non-sovereign member. The admission process was in progress and was envisaged to be completed in the first half of 2017. The Government would continue to discuss with AIIB to seek its agreement to set up a sub-office in Hong Kong, as well as to leverage Hong Kong's capital markets, the supply of asset management professionals and development of financial products to support the operation of AIIB in various aspects. While noting that Hong Kong faced keen competition in this regard, SFST considered that Hong Kong had a competitive edge owing to its proximity to the Mainland and strengths in the financial services sector. He added that the recent decline in Hong Kong's offshore RMB liquidity pool would have little impact as the majority of AIIB's lending was denominated in the US dollar.

Development in Fintech

30. Mr Kenneth LEUNG enquired about details of measures to promote the development of fintech, and whether the Administration would consider setting targets, like converting Hong Kong into a cashless society within the next five to 10 years, in order to give impetus to Hong Kong's fintech development. He also called on the Administration to step up publicity on the various fintech initiatives.

31. Mr CHAN Chun-ying stressed that the Administration had to relax the existing regulatory requirements on entities and foster a conducive environment for fintech development. For instance, the Administration should attract overseas talents, provide tax incentives, affordable office premises and loans for fintech start-ups.

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32. Noting that a number of banks in Hong Kong had conducted research on new fintech solutions, Mr WU Chi-wai asked if the Administration would formulate measures to facilitate the sharing of the research results.

33. SFST said that the Government was mindful of the need to enhance human capital and foster a conducive environment for fintech development in Hong Kong. He pointed out that the Government had rolled out a number of measures to promote the development of fintech, and would continue to liaise with regulators and the financial services industry on the matter. To enable banks to conduct pilot trials of their new fintech solutions, HKMA had introduced FSS. Moreover, the Hong Kong Applied Science and Technology Research Institute had been commissioned to conduct a research on the subject of distributed ledger technology (i.e. blockchain). In addition, Cyberport had launched in 2016 its dedicated fintech co-working space, the Smart-Space FinTech, for fintech start-ups. As understood, a number of overseas fintech start-ups had started business in Hong Kong. SFST further remarked that many new fintech solutions were still at the "proof of concept" stage, and much more research would be required for such solutions before putting them into practical use. Nevertheless, the Government would share its experience with other jurisdictions as appropriate.

34. SFST supplemented that substantial progress had been made in the area of electronic payment. The Payment Systems and Stored Value Facilities Ordinance (Cap. 584) commenced full operation in November 2016 and HKMA had granted a number of store value facilities licences. HKMA would refine the regulatory regime as necessary. It was envisaged that further developments in electronic payment would help Hong Kong become a cashless society.

Regulation of money lenders

35. Mr WU Chi-wai enquired about the number of non-compliance cases by money lenders following the introduction of new licensing conditions on money lender licences since December 2016, whether the Administration would advance its review of the enhanced measures for tackling money lending-related malpractices given the increase in reports on malpractices of money lenders recently, and whether the Administration would consider enhancing the protection for borrowers by introducing a cooling-off period.

36. Deputy Secretary for Financial Services and the Treasury (Financial Services)3 ("DS(FS)3") advised that since the implementation of the additional licensing conditions in December 2016, there were a few cases of non-compliance by money lenders relating to the new requirements on advertisements and record

keeping. Relevant departments including the Companies Registry had taken follow-up actions as necessary. He also explained that complainants of money lending-related malpractices usually made a report to the Police only some months or even a year after the alleged malpractices had taken place, thus recent reports on money lending-related malpractices could not be taken as indicator of the effectiveness of the new measures introduced by the Government. DS(FS)3 added that the Government would review its new measures six months after implementation of the new measures.

The Mandatory Provident Fund System

37. While Dr YIU Chung-yim welcomed the Mandatory Provident Fund Schemes Authority's ("MPFA") requirement on MPF trustees to offer at least one "low-fee fund" (i.e. funds with management fees not higher than 1% or fund expense ratio of 1.3% or below) under each MPF scheme, he opined that MPFA should also require MPF trustees to disclose more information on such funds, including whether the return rates of the funds were better than MPF funds with similar investment portfolios but higher level of fees, so that MPF scheme members could make informed choices. Dr YIU also enquired whether MPF scheme members could opt for DIS on their own initiative, and what measures the Administration and MPFA would take to facilitate MPF scheme members to consolidate their MPF accounts.

38. SFST responded that the Government and MPFA had all along been advising the public that there was no direct relation between the fee levels and return rates of individual MPF funds. The Government and MPFA would also continue their efforts in driving down MPF fees. SFST added that DIS would provide a fee-controlled option for MPF scheme members. Scheme members could opt for DIS on their own initiative, and could choose individual constituent funds under DIS for investment of their MPF contributions. As regards the consolidation of MPF accounts, SFST advised that the Government and MPFA would require time to study and develop e-MPF, a centralized electronic platform with a view to driving down administrative fees and facilitating the consolidation of MPF accounts.

Difficulties in opening bank accounts

39. While acknowledging the need for Hong Kong to comply with the international requirements on combating money laundering and terrorist financing, Mr Kenneth LEUNG expressed concern about the difficulties encountered by certain enterprises and individuals in opening bank accounts. Although HKMA issued in September 2016 a circular to all banks clarifying its

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expectation that banks should refrain from taking overly stringent customer due diligence ("CDD") process that could result in financial exclusion, it was observed that some banks still adopted overly prudent measures in handling applications for opening bank accounts. He stressed the need for the Administration to address the issue. As the problem might partly be attributed to the front-line staff members of banks who were unfamiliar with HKMA's RBA, he suggested that the Government should require banks to strengthen staff training in this regard.

40. SFST responded that the Government was aware of the problem mentioned by Mr Kenneth LEUNG and had been liaising with HKMA on the matter. Nevertheless, some banks might take more stringent CDD measures in meeting the regulatory requirements in their home jurisdictions. He added that HKMA would monitor compliance of the banking industry with the requirements stipulated in its circular issued in September 2016 and proper implementation of RBA.

VI Charging Mandatory Provident Fund intermediaries registration, approval and annual fees and revision of fees in relation to Occupational Retirement Schemes

(LC Paper No. CB(1)502/16-17(04)	—	Administration's paper on "Charging Mandatory Provident Fund Intermediaries Registration, Approval and Annual Fees and Revision of Fees in relation to Occupational Retirement Schemes"
LC Paper No. CB(1)502/16-17(05)	—	Background brief on charging Mandatory Provident Fund intermediaries registration, approval and annual fees and revision of fees in relation to Occupational Retirement Schemes prepared by the Legislative Council Secretariat)

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Briefing by the Administration

41. At the invitation of the Chairman, the Deputy Secretary for Financial Services and the Treasury (Financial Services)2 ("DSFS") briefed members on the proposal to charge fees relating to the regulation of Mandatory Provident Fund ("MPF") intermediaries ("MPF-i fees") and to revise fees in relation to Occupational Retirement Schemes ("ORSO schemes"). DSFS said that a statutory regulatory regime of registered MPF intermediaries was put in place in 2012 in anticipation of more proactive sales and marketing activities targeted at MPF scheme members when the Employee Choice Arrangement was implemented in 2012. Under the new regulatory regime, MPFA was empowered to collect registration, approval and annual fees to cover the regulatory costs but MPFA decided not to collect fees in the initial years of operation of the regime in order to minimize transitional impacts on intermediaries and also to allow some time for an assessment of the actual costs involved. After four years' smooth operation, MPFA considered it appropriate to start charging the MPF-i fees. As regards ORSO schemes, DSFS said that fees relating to the supervision of ORSO schemes had remained unchanged for about 20 years and hence could not reflect the current costs borne by MPFA.

42. DSFS further said that the proposed MPF-i fees levels were based on the cost-recovery principle and were set at 60% of the relevant costs initially to reduce the cost burden on small and medium sized enterprises. MPFA planned to review the MPF-i fees in five years with a view to bringing them progressively to cover the actual costs. It was proposed that the new fees would take effect from 1 January 2018.

43. Members noted the plan of the Administration and MPFA to proceed with the necessary legislative amendments within the 2016-2017 session, and did not raise any questions.

(At 11:28 am, the Chairman ordered that the meeting be suspended for 15 minutes. The meeting resumed at 11:43 am.)

VII Budget of the Securities and Futures Commission for the financial year 2017-2018

(LC Paper No. CB(1)502/16-17(06)	—	Administration's paper on "Securities and Futures Commission Budget for the Financial Year 2017-18"

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LC Paper No. CB(1)502/16-17(07) — Background brief on the annual budgets of the Securities and Futures Commission prepared by the Legislative Council Secretariat)

Briefing by the Securities and Futures Commission

44. At the invitation of the Chairman, the Chairman of the Securities and Futures Commission ("C/SFC") briefed members on SFC's proposed budget for 2017-2018. He also highlighted the work being done in relation to the joint consultation launched by SFC and HKEX in June 2016 on the proposed enhancements to the Stock Exchange of Hong Kong Limited's decision-making and governance structure for listing regulation ("the listing consultation").

(*Post-meeting note*: The speaking note of C/SFC was issued to members vide LC Paper No. CB(1)529/16-17(02) on 7 February 2017.)

Discussion

Manpower strength and regulatory work of the Securities and Futures Commission

45. Mr CHAN Chun-ying noted that SFC's budget included a provision for an annual pay adjustment of around 4.5% and sought justifications for the provision.

46. C/SFC explained that the pay adjustment rate of 4.5% was only an estimate and had been worked out with reference to the results of an externally conducted pay trend survey in the financial services sector. The actual rate of adjustment would be deliberated by SFC's Remuneration Committee and then decided by the Board of SFC having regard to all relevant factors.

47. Mr Kenneth LEUNG observed that there had been a steady increase in SFC's headcounts in recent years and expressed concern about the continuous expansion in SFC's manpower. He asked whether SFC would impose any cap on its headcounts.

48. The Chief Executive Officer, SFC ("CEO/SFC") explained that SFC had been heavily under-resourced previously and the headcount increase in the recent years was necessary to enable it to properly discharge its regulatory functions. SFC considered that its staff size was currently about right and intended to keep

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its annual headcount increase to under 3%. The headcount increase in the 2017-2018 budget was in line with this and SFC envisaged that a similar rate of increase would be maintained in the coming years barring unforeseen material changes in circumstances or an expanded remit.

49. Mr Kenneth LEUNG called on SFC to re-consider its annual headcount growth, which in his view was not commensurate with the local GDP growth in recent years. Mr Abraham SHEK indicated support for SFC's budget. He considered it inappropriate to impose a manpower cap on SFC and opined that SFC should have flexibility in manpower matters having regard to the prevailing market conditions. He further suggested that SFC should invite the Audit Commission to conduct value for money audits for SFC on a regular basis.

50. C/SFC responded that the growth in SFC's manpower was necessary for proper regulation of the growing securities market and GDP growth might not have a correlation with SFC's manpower need. Nonetheless, he would bring Mr Kenneth LEUNG's view to the Board of SFC. The SFC Board would keep the 3% headcount cap under review.

51. Noting that SFC planned to create eight new posts in the Legal Services Division ("LSD") in 2017-2018, Mr Kenneth LEUNG asked whether SFC had considered outsourcing some of its legal services with a view to enhancing the cost-effectiveness in utilizing resources.

52. CEO/SFC said that it was observed that provision of legal advice gave rise to a bottleneck in processing enforcement cases. Hence, SFC had decided to strengthen the manpower of LSD in 2017-2018 to address the issue. He added that SFC had outsourced its legal services to law firms in the past, but experience had shown that it would be more efficient to have in-house capability than outsourcing.

53. The Chairman pointed out that despite the increase in SFC's headcounts in recent years, there was little improvement in its work in tackling misconduct of listed companies. On the contrary, SFC had tightened its supervision of licensed intermediaries. For instance, the brokerage industry had expressed grave concern over the implementation of the requirement to incorporate a suitability clause in client agreements which would adversely affect the operation of the industry. A number of intermediaries had found it difficult in understanding the new requirement and how to comply with it. In respect of the licensing fee holiday for licensed intermediaries, the Chairman suggested that SFC should consider extending the measure for two more years up to 2019-2020 in addition to the proposed one-year extension for 2017-2018 so as to provide financial relief to

intermediaries given the economic uncertainties ahead. He also remarked that besides increasing the transaction levy rate, there could be other measures to address SFC's budget deficit.

54. CEO/SFC responded that SFC had introduced a number of measures to enhance market quality, including issuing a circular concerning the expected behaviour of intermediaries when placing shares for listing on the Growth Enterprise Market. SFC would also strengthen its enforcement actions. It was found that market misconduct issues relating to listed companies were on the rise. CEO/SFC advised that to provide more clarity in advance of the coming into force of the requirement for intermediaries to incorporate a suitability clause in client agreements, SFC issued a circular in December 2016. This made clear when the suitability requirements under the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission ("Code of Conduct") would be triggered. SFC had also issued a list of frequently asked questions on compliance with the suitability requirements. SFC would continue to liaise with the brokerage industry on the matter.

Cyber security of the Securities and Futures Commission

55. Mr CHAN Chun-ying enquired about SFC's plan to increase resources for enhancing its cyber security. CEO/SFC said that SFC would increase expenditure on information and system services in 2017-2018 which would include upgrading software and implementing new measures to enhance system security. He added that SFC attached great importance to improving cyber security in the securities industry. Apart from organizing workshops for the industry, SFC was working on a proposal to introduce cyber security baseline requirements in the Code of Conduct .

Office premises

56. Noting that SFC had ring-fenced $3,000 million for possible acquisition of office premises, Mr CHAN Chun-ying enquired whether SFC would need to seek the approval of LegCo for purchasing the office premises. The Chairman remarked that SFC should also consider acquiring office premises in non-prime locations.

57. C/SFC advised that SFC was a statutory body whose estimates of income and expenditure (i.e. the budget) required the approval from the Financial Secretary ("FS") under the Securities and Futures Ordinance (Cap. 571) ("SFO"). In line with the existing practice, SFC would brief the Panel on Financial Affairs ("FA Panel") on the proposed budget before FS' approval. SFC's decision to

acquire office premises would be reflected in its budget and LegCo Members could express views on the matter when FA Panel was briefed on SFC's proposed budget. C/SFC assured members that SFC would carefully consider any acquisition of office premises bearing in mind cost-effectiveness, and would consider all options including non-prime locations.

Consultation on the proposed enhancements to the Stock Exchange of Hong Kong Limited's decision-making and governance structure for listing regulation

58. Mr Abraham SHEK expressed dissatisfaction as SFC and the Government seemed to have a stance on the listing consultation while the market was being consulted. He stressed the importance for SFC and the Government to maintain a neutral stance on the subject. Mr SHEK further considered that SFC should carefully review whether the proposals set out in the consultation document were ultra vires SFO, and cautioned that SFC should refrain from interfering with the operation of HKEX. Given the controversies surrounding the subject, he strongly urged SFC not to make any decisions hastily and implement any proposals in the consultation document before commencement of the new term of Government.

59. Mr Kenneth LEUNG expressed support for conducting the listing consultation which had provided opportunities for the public and the market to give views. He said that the operation of SFC was subject to the scrutiny of LegCo and stressed the importance of striking a proper balance between promoting sustainable development of the market and maintaining a quality market. Mr LEUNG said that while he welcomed the direction in improving the listing regulatory regime, he considered that a number of related issues required further study by SFC and the Government. He called on SFC to study the submissions received carefully and formulate detailed proposals for further consideration by stakeholders.

60. The Chairman shared that the listing consultation had aroused concerns of the securities industry and public controversies. While there was room for making improvement and refinement for some proposals, he did not support scrapping all proposals put forward in the consultation document. He stressed the need for SFC to accord priority in dealing with issues concerning public interest, protecting the investors and ensuring a level playing field in the securities industry. Mr Abraham SHEK clarified that he supported measures to enhance the quality of the market, and had not requested SFC to withdraw the consultation exercise.

61. C/SFC responded that SFC received a large number of submissions covering an extremely wide range of views with some expressing concerns similar to those raised by Mr Abraham SHEK. He assured members that SFC remained open-minded to all views received. It would study all views jointly with HKEX carefully and planned to brief FA Panel on the subject at the regular Panel meeting in April 2017. C/SFC stressed that SFC would not act beyond its powers, and there was no timetable for implementing any proposals set out in the consultation document. CEO/SFC supplemented that the proposals set out in the consultation document had been agreed by the leaderships of SFC and HKEX before publication. The overarching goal of the consultation was to enhance market quality, efficiency, accountability and transparency.

62. Deputy Secretary for Financial Services and the Treasury (Financial Services)1 ("DS(FS)1") remarked that the objectives of the listing consultation were to enhance market efficiency and streamline the relevant procedures. The consultation exercise had been conducted within the framework of the existing legislation. SFC and HKEX would not finalize the recommendations impetuously, and would brief FA Panel on the subject at the Panel meeting in April 2017.

63. Mr CHAN Chun-ying pointed out that SFC's refined proposals after taking into account the views received during the consultation might still be controversial. He suggested that SFC should conduct another public consultation on the refined proposals. C/SFC responded that SFC intended to provide a preliminary summary of the views received at the FA Panel meeting in April 2017. SFC and HKEX required more time to study the submissions in detail and to formulate any revised proposals and map out the way forward.

64. In response to Mr Kenneth LEUNG's enquiry, C/SFC said that when the listing consultation was launched in June 2016, SFC did not envisage that implementation of the proposals set out in the consultation document would necessitate any amendments to existing legislation.

65. Mr Abraham SHEK was not convinced that implementation of the proposals contained in the consultation document would not require changes to existing legislation. He requested the Administration and SFC to provide a paper explaining: (a) the impacts of the various proposals on existing legislation, in particular whether the proposals were ultra vires SFO; and (b) the relevant power under SFO for SFC to establish the proposed Listing Policy Committee and the proposed Listing Regulatory Committee.

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66. C/SFC reiterated that SFC would carefully analyze all views received, including those dealing with legal aspects of the proposals. DS(FS)1 added that the Government noted that some of the submissions received had raised legal issues. These issues, including those raised by Mr Abraham SHEK, would be taken into account in the SFC's analysis and its progress report to FA Panel.

VIII Any other business

67. There being no other business, the meeting ended at 12:47 pm.

Council Business Division 1
Legislative Council Secretariat
10 April 2017