立法會
Legislative Council

LC Paper No. CB(1)924/17-18
(These minutes have been seen by the Administration)

Ref : CB1/PL/FA/1

Panel on Financial Affairs

Minutes of meeting held on
Monday, 5 March 2018, at 10:00 am
in Conference Room 1 of the Legislative Council Complex

Members present	**:**	Hon Kenneth LEUNG (Chairman) Hon James TO Kun-sun Hon Abraham SHEK Lai-him, GBS, JP Hon WONG Ting-kwong, GBS, JP Hon CHAN Kin-por, GBS, JP Hon Mrs Regina IP LAU Suk-yee, GBS, JP Hon Paul TSE Wai-chun, JP Hon Charles Peter MOK, JP Hon Dennis KWOK Wing-hang Hon Alvin YEUNG Hon CHU Hoi-dick Dr Hon Junius HO Kwan-yiu, JP Hon Holden CHOW Ho-ding Hon SHIU Ka-fai Hon CHAN Chun-ying Hon CHEUNG Kwok-kwan, JP Hon LUK Chung-hung
Members absent	**:**	Hon Christopher CHEUNG Wah-fung, SBS, JP (Deputy Chairman) Hon Jeffrey LAM Kin-fung, GBS, JP Hon Starry LEE Wai-king, SBS, JP Hon WU Chi-wai, MH Ir Dr Hon LO Wai-kwok, SBS, MH, JP

Public officers attending : Agenda Item III

Mr Andrew LAI, JP
Deputy Secretary for Financial Services and the Treasury (Treasury)2

Mr Brian CHIU, JP
Deputy Commissioner of Inland Revenue (Technical)

Mr Stephen LO
Principal Assistant Secretary for Financial Services and the Treasury (Treasury) (R2)

Mrs Paulina WONG
Chief Assessor (Tax Treaty)
Inland Revenue Department

Agenda Item IV

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

Agenda Item V

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

Ms Joan HUNG
Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) SD

Agenda Item VI

Ms Winnie NG, JP
Deputy Secretary for Financial Services and the Treasury (Financial Services)3

Mr TE Chi-wang
Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)6

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

Agenda Item VII

Mr Raistlin LAU Chun, JP
Deputy Secretary for Financial Services and the Treasury (Treasury)3

Mr Tommy YUEN Man-chung, JP
Government Property Administrator
Government Property Agency

Mr LAM Chik-man
Chief Property Manager (Acquisition, Allocation and Disposal)
Government Property Agency

Mr Frank WONG Tak-choi
Project Director 1
Architectural Services Department

Ms Monica LAM Sau-lai
Chief Project Manager 101
Architectural Services Department

Attendance by Invitation : Agenda Item IV

Dr Moses CHENG Mo-chi, GBM, GBS, JP
Chairman
Insurance Authority

Mr John LEUNG, JP
Chief Executive Officer
Insurance Authority

Ms Catherine LEUNG
Director, Corporate Services
Insurance Authority

Ms Fontaine CHENG
Secretary
Insurance Authority

Agenda Item V

Mr John LEUNG, JP
Chief Executive Officer
Insurance Authority

Mr Raymond TAM
Executive Director (Policy and Development)
Insurance Authority

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 Information papers issued since the regular meeting on 5 February 2018

(LC Paper No. CB(1)615/17-18(01)	—	Administration's paper on "Agreement on the New Development Bank"
LC Paper No. CB(1)626/17-18(01)	—	Quarterly Report of the Securities and Futures Commission (October to December 2017))

Members noted the information papers issued since the regular meeting held on 5 February 2018.

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II Date of next meeting and items for discussion

(LC Paper No. CB(1)625/17-18(01) — List of outstanding items for discussion

LC Paper No. CB(1)647/17-18(01) — Letter dated 27 February 2018 from Hon Dennis KWOK Wing-hang on weighted voting rights proposed by the Hong Kong Exchanges and Clearing Limited (English version only))

2. Members agreed to discuss the following items proposed by the Administration at the regular meeting scheduled for 3 April 2018 at 10:00 am:

(a) Development of financial technologies ("Fintech");

(b) Development of green finance; and

(c) Legislative proposals on loss-absorbing capacity requirements under the Financial Institutions (Resolution) Ordinance (Cap. 628).

3. Members noted Hon Dennis KWOK's letter dated 27 February 2018 to the Chairman requesting the Panel to discuss matters relating to the recent consultation by the Stock Exchange of Hong Kong Limited on the proposed new listing regime for emerging and innovative companies. The Chairman said that as he learnt from the Administration, representatives of the Hong Kong Exchanges and Clearing Company Limited ("HKEX") and the Securities and Futures Commission ("SFC") were prepared to attend the regular Panel meeting in April 2018. Although the consultation would end on 23 March 2018, HKEX and SFC would take into account members' views raised at the regular meeting.

4. Mr CHAN Chun-ying declared that he was a shareholder of HKEX. He and Mr CHAN Kin-por suggested that the Panel should discuss the subject at the regular meeting on 3 April 2018. Members agreed.

(*Post-meeting note*: As there would be four discussion items for the meeting on 3 April 2018, the meeting would commence at 9:30 am and end at 12:45 pm. Members were informed of the meeting arrangement vide LC Paper No. CB(1)678/17/18 issued on 8 March 2018.)

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III Application of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting in Hong Kong

(LC Paper No. CB(1)625/17-18(02) — Administration's paper on "Application of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting in Hong Kong"

LC Paper No. CB(1)625/17-18(03) — Background brief on application of Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting in Hong Kong prepared by the Legislative Council Secretariat)

Briefing by the Administration

5. At the invitation of the Chairman, Deputy Secretary for Financial Services and the Treasury (Treasury)2 ("DS(Tsy)2") briefed members on the Government's plan to give effect to the application of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("Multilateral Instrument") in Hong Kong. He said that the Multilateral Instrument was one of the 15 actions of the Base Erosion and Profit Shifting ("BEPS") package promulgated by the Organisation for Economic Cooperation and Development ("OECD") which sought to ensure swift, coordinated and consistent implementation of treaty-related BEPS measures in a multilateral context. Implementing the Multilateral Instrument would obviate the need for bilateral tax treaty negotiations amongst jurisdictions for amending the relevant tax treaty provisions in a piecemeal manner. The Government intended to list 36 of Hong Kong's existing Comprehensive Avoidance of Double Taxation Agreements ("CDTA") as agreements that Hong Kong wished to be covered by the Multilateral Instrument. Hong Kong had obtained the endorsement of the Central People's Government ("CPG") to extend the application of the Multilateral Instrument to Hong Kong's CDTAs. Upon the making of the final list of reservations and notifications by CPG on behalf of Hong Kong under the Multilateral Instrument, the Government would seek the approval from the Chief Executive in Council ("CE-in-Council") for making an order under section 49 of the Inland Revenue Ordinance (Cap.112) ("IRO") to give effect to

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the Multilateral Instrument in Hong Kong. The Order would be subject to the negative vetting procedure of the Legislative Council ("LegCo"). The Government planned to complete the relevant legislative exercise within 2018.

Discussion

6. Mr CHAN Chun-ying enquired about the timeframe for Hong Kong to take forward the Multilateral Instrument and the consequences if Hong Kong did not meet the international standard in this regard. He also sought details regarding the implementation strategy for Article 6 of the Multilateral Instrument which contained both mandatory and optional provisions.

7. DS(Tsy)2 advised that the order to be made by CE-in-C under section 49 of IRO would be subject to the negative vetting procedure of LegCo, and hence the scrutiny of the subsidiary legislation would be completed within four weeks (or seven weeks if the scrutiny period was extended) immediately following the day on which the subsidiary legislation was tabled at LegCo. As regards the implementation strategy, DS(Tsy)2 said that the Government intended to take forward the mandatory provisions only while opting out of the optional articles, except for an optional provision under Article 6. The optional provision under Article 6 allowed participating jurisdictions to include in their CDTAs preamble language relating to a desire to further develop an economic relationship and enhance cooperation in tax matters. As this preamble was in line with the objectives of Hong Kong's CDTA policy and demonstrated the goodwill of Hong Kong towards international tax co-operation, it was advisable for Hong Kong to take forward this optional provision under Article 6.

8. Mr CHAN Chun-ying noted that the Inland Revenue (Amendment) (No. 6) Bill 2017 ("the Amendment Bill") which sought to amend IRO for implementing the BEPS package in Hong Kong was under scrutiny by a Bills Committee. He enquired whether there would be relationship between the timeframe for implementing the Multilateral Instrument and the passage of the Amendment Bill.

9. DS(Tsy)2 explained that the Amendment Bill sought to codify the transfer pricing principles into IRO and implement the minimum standards of the BEPS package; whereas the Multilateral Instrument would allow Hong Kong to modify the application of the relevant existing CDTAs so as to ensure that they would be BEPS-compliant. The two legislative exercises were not sequential in nature.

10. The Chairman sought details on OECD's peer review on Hong Kong's implementation of the BESP package. DS(Tsy)2 said that OECD's peer review had already commenced. It would therefore be imperative for Hong Kong to

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enact the Amendment Bill and implement the Multilateral Instrument within 2018.

IV Budget of the Insurance Authority for the financial year 2018-2019

(LC Paper No. CB(1)625/17-18(04) — Administration's paper on "Budget of the Insurance Authority for the financial year 2018-2019"

LC Paper No. CB(1)625/17-18(05) — Updated background brief on the establishment of and financial arrangements for the Insurance Authority prepared by the Legislative Council Secretariat)

Briefing by the Insurance Authority

11. At the invitation of the Chairman, the Chairman, Insurance Authority ("C/IA") briefed members on the main features of the proposed budget of the Insurance Authority ("IA") for the financial year 2018-2019. He advised that the estimated income of IA for 2018-2019 was $182.9 million while the estimated operating and capital expenditure were $418.1 million and $27 million respectively. C/IA also highlighted the major work of IA in 2018-2019 including preparation for the implementation of risk-based capital ("RBC") regime for the insurance industry and the Policy Holders' Protection Scheme ("PPS"), and taking over the regulation of insurance intermediaries and administering the statutory licensing regime for intermediaries ("the licensing regime").

(*Post-meeting note*: The speaking note of C/IA was issued to members vide LC Paper No. CB(1)680/17-18(01) on 9 March 2018.)

Discussion

Financial position of the Insurance Authority

12. Mr CHAN Kin-por welcomed the measures taken by IA to contain its expenditure including setting up its office in non-core business area in Wong Chuk Hang. He enquired whether IA had any contingency measures if the seed money of $650 million provided by the Government was found inadequate to meet IA's operating expenditure in the initial years. The Chairman enquired about the arrangement for disbursing the seed money to IA. Mr Dennis KWOK

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stressed the importance for IA to achieve a balanced budget within a reasonable time.

13. On the provision of seed money, the Director, Corporate Services, Insurance Authority ("D/IA") advised that the Government had disbursed the first tranche of $450 million to IA in 2016-2017, and subject to the approval of LegCo, the second tranche of $200 million would be disbursed to IA in 2018-2019.

14. Regarding the adequacy of resources, C/IA responded that it would be premature to have an accurate estimation at this stage as IA had only taken over the functions of the former Office of Commissioner of Insurance since June 2017. He stressed that IA would deploy its resources prudently and adjust its budget as necessary having regard to the need for IA to be financially independent of the Government in the long run. He advised that IA had worked out a six-year forecast of its income and expenditure. It was estimated that the operating deficit in initial years would partially be offset by expected growth in the income from authorization fees payable by insurance companies given the stable development of Hong Kong's insurance industry. The forecast also suggested that IA would achieve an operating surplus in 2021-2022 when the target levy rate of 0.1% was reached. C/IA added that IA had started collecting authorization fees from insurance companies and fees for specific services with effect from 26 June 2017, and levies from policy holders since 1 January 2018. It would take some time for IA to accumulate operational experience and gather information on its income and expenditure before it could work out a more accurate budget and better assess its financial position.

15. In respect of the annual authorization fees (which consisted of a fixed fee and a variable fee) payable by insurance companies, Mr Dennis KWOK requested IA to provide information on the number of insurance companies currently paying the maximum variable fee (i.e. $ 7 million). He opined that IA should consider reviewing whether the cap of the variable fee should be raised, especially for large insurance companies.

(*Post-meeting note:* The Administration's supplementary information was circulated to members vide LC Paper No. CB(1)699/17-18(02) on 16 March 2018.)

16. C/IA advised that the variable fee was calculated as a percentage of insurance liabilities of individual insurance companies. IA would formulate measures to attract more insurance companies to set up regional headquarters in Hong Kong, which would increase IA's income from authorization fees.

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Expenditure of the Insurance Authority

17. Mr CHAN Chun-ying referred to paragraph 8(e) of the information paper (i.e. LC Paper No. CB(1)625/17-18(04)), and enquired whether the increase in expenditure for the item "Non-recurrent projects" was to cater for the cashflow requirement (rather than the cost) of the consultancy studies on the development of the RBC regime. He further asked if the consultancy studies were expected to complete within 2018-2019, and suggested that details on IA's expenditure and cashflow requirement should be presented separately. Mr CHAN also sought details of the mechanism for handling expenditure items with the original estimates exceeded, including whether covering approval from relevant parties of IA would be required.

18. Deputy Secretary for Financial Services and the Treasury (Financial Services)2 ("DS(FS)2") confirmed that the expenditure concerned was to meet the cost of the consultancy studies relating to RBC project which would straddle over several financial years. On the handling of cost-overrun items, C/IA advised that the revised estimate of IA would first be examined by the Corporate Services Committee of IA, and then approved by IA Board.

Recruitment and remuneration of staff members of the Insurance Authority

19. Mrs Regina IP was concerned that IA had to compete in the market and with other financial regulators in recruiting staff, and enquired how IA would determine the remuneration of its Chief Executive Officer ("CEO"). She also enquired whether IA had put in place a mechanism to appraise the conduct of its CEO, including whether there was any control period on post-service employment and confidential undertaking requirement, as well as measures against possible conflict of interest.

20. C/IA pointed out that the incumbent CEO of IA was a civil servant seconded from the Government. IA would need to recruit a new CEO before the secondment ended in mid-2018, and would determine the level of remuneration having regard to the recommendations of the relevant consultancy study conducted in 2015, advice of IA's recruitment consultant, and pay levels in other similar public organizations. C/IA added that the mechanism for regulating the conduct and integrity of IA's staff was generally in line with that applicable to civil servants.

21. Noting that the bulk of IA's operating expenditure in 2018-2019 would be on staff costs, Mr CHAN Kin-por was concerned that the average salary level of staff might be on the high side. As there was an acute shortage in the supply of insurance talents in Hong Kong, Mr CHAN suggested that IA should explore

whether the staff establishment for administering the licensing regime could be reduced.

22. C/IA stressed that IA would determine its size of establishment having regard to actual operational needs. IA would have full strength of about 300 staff members on board in 2018-2019. This level of manpower was considered appropriate taking into account the functions of IA including the regulation of over 100 000 insurance intermediaries in Hong Kong. IA had encountered difficulties in staff recruitment and the workload of its existing staff was heavy. IA would explore ways to reduce its manpower requirement including promoting the use of information technology at work (like implementing digitalization of the licence application process).

Development of the insurance industry

23. Mr WONG Ting-kwong expressed concern about the shortage of talents in the insurance industry, and enquired about measures taken by IA to tackle the issue including attracting new entrants to the industry and enhancing the professional development of existing practitioners in the industry.

24. C/IA advised that apart from discharging regulatory functions, IA was responsible for promoting the sustainable development of Hong Kong's insurance industry. It was envisaged that the continuous professional development requirements to be imposed under the licensing regime would further boost the demand for professional training. IA would organize training programmes to meet the demand if necessary. Moreover, IA would attract new blood to the industry through liaising with various academic institutions on the provision of relevant programmes, and organizing promotional activities to enhance the image of the industry.

25. Mr Holden CHOW called on the Administration and IA to step up efforts in promoting the development of maritime insurance in Hong Kong, and urged them to consider relaxing restrictions on the business such as removing the current prohibition on the sale of insurance policies in Hong Kong by Protection and Indemnity Clubs unless they were duly authorized. Mr CHOW also enquired whether IA would formulate measures to help the insurance industry tap opportunities arising from the development of the Guangdong-Hong Kong-Macao Bay Area, including enhancing market access of the local insurance industry in the Mainland.

26. C/IA agreed that there was room for Hong Kong to develop maritime insurance. In this connection, the Government and IA would examine relevant measures adopted in other jurisdictions including: (a) requiring ships registered under Hong Kong flags to procure maritime insurance in Hong Kong; and

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(b) providing tax incentives. Chief Executive Officer, Insurance Authority added that IA had been reviewing whether there was room to relax existing restrictions on maritime insurance business. Besides, IA had been discussing with the China Insurance Regulatory Commission (which had recently been merged with the China Banking Regulatory Commission into the China Banking and Insurance Regulatory Commission) on the possibility of allowing the sale of certain simple insurance products through a specific platform developed between Hong Kong and the Mainland.

V Policy Holders' Protection Scheme Bill

(LC Paper No. CB(1)625/17-18(06)	—	Administration's paper on "Policy Holders' Protection Scheme Bill"
LC Paper No. IN08/17-18	—	Information note on "Policyholders' protection schemes in selected places" prepared by the Research Office of Legislative Council Secretariat)

Briefing by the Administration

27. At the invitation of the Chairman, Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) SD briefed members through a powerpoint presentation on the key legislative proposals under the Policy Holders' Protection Scheme Bill ("the Bill"). She said that the Bill was to establish a PPS for protecting policy holders' interest by compensating policy holders or securing the continuity of insurance contracts in case an insurance company became insolvent. The Policy Holders' Protection Board ("the Board") which was a statutory body would be established as the governing body of PPS. All authorized insurers (except those excluded by the Bill) would be required to be members of PPS ("Scheme members") unless they were exempted by the Board. Eligible policy holders included individuals, small and medium enterprises ("SMEs") and owners' corporations. There would be two separate funds under PPS, namely the Life Fund and the Non-life Fund ("the Funds"), for providing a safety net for policy holders of life (long term) policies and non-life (general) policies respectively. The initial target sizes of the Funds were $1.2 billion and $75 million respectively. Scheme members were required to pay a levy of 0.07% of their premiums received from protected policies for building up the Funds, which was estimated to take about 15 years to reach the target sizes. The Bill would also set out the usage and compensation limit of the Funds, and the

asset recovery mechanism of PPS. The Government's target was to introduce the Bill into LegCo in the 2018-2019 legislative session.

> (*Post-meeting note*: The powerpoint presentation materials (LC Paper No. CB(1)660/17-18(01)) were issued to Members vide Lotus Notes e-mail on 5 March 2018.)

Discussion

Protection offered by the Policy Holders' Protection Scheme

28. While welcoming the establishment of PPS, Mr James TO was concerned that PPS might not provide sufficient protection for policy holders as it would be possible that the policies of a failed Scheme member could not be transferred to other insurance companies. He also expressed concern that the relevant costs might be transferred to policy holders. Mr LUK Chung-hung shared Mr TO's concerns, and requested the Administration to elaborate on how PPS could protect holders of life policies. Mr James TO and Dr Junius HO considered that the Administration should minimize the operating cost of PPS, which would be beneficial to policy holders.

29. The Deputy Secretary for Financial Services and the Treasury (Financial Services 2 ("DS(FS)2") pointed out that apart from providing a safety net, PPS could facilitate the prompt settlement of insurance claims and benefits of protected policies. On the transfer of policies, he explained that under section 46(2) of the Insurance Ordinance (Cap. 41)("IO"), the Court would appoint a liquidator to carry on the long term business of an insolvent insurance company to facilitate the transfer of such business as a "going concern" to other insurance companies. It was envisaged that the Life Fund would help the transfer of the whole or part of the life policies of a failed Scheme member to other insurance companies. In the unlikely event that the transfer of the policies to a commercial insurance company could not be arranged, the policies would be transferred to a Special Purpose Insurer set up by the Board. In case the Court ordered a reduction of contract amount, PPS would provide guarantee top up payment to eligible policy holders in excess of that under the reduced contract for their contingent claims and benefits. Regarding the operating cost of PPS, DS(FS)2 advised that IA would serve as the administrative arm of the Board for cost effectiveness.

30. Mr Dennis KWOK expressed concern that the proposed target sizes of the Life Fund and the Non-life Fund were too low in providing adequate protection for policy holders. On the other hand, Mr CHAN Kin-por pointed that it would be very unlikely for insurance companies in Hong Kong to become insolvent as they were subject to stringent regulation, and most of their investments were made in financial products with relatively lower risk like bonds. Mr LUK Chung-hung

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further enquired about whether there had been cases of insolvency of insurance companies in recent years.

31. Dr Junius HO welcomed the Administration's proposal to set up PPS. He enquired how the initial target sizes of the Life Fund and the Non-life Fund had been worked out, and sought details of the aggregate amount of policies to be covered by PPS. He also asked whether PPS had taken into account the reinsurance arrangements made by some insurance companies for the policies they underwrote.

32. On the target sizes of the Life Fund and the Non-life Fund, DS(FS)2 advised that the Government had made reference to the relevant policy papers of the International Association of Insurance Supervisors, which suggested that the target sizes of funds under PPS should minimize the risk of moral hazard and the burden on insurance companies and policy holders. He and Executive Director (Policy and Development), Insurance Authority ("ED/IA") pointed out that the proposed target sizes of the two Funds were worked out by actuaries taking into account the data of the local insurance industry. According to IA, the average cash value of life policies in Hong Kong was around $120,000. Given Hong Kong's robust regulatory system, it was envisaged that about 80%-90% of the liabilities of a failed Scheme member could be met out of its own assets. The actual amount of money required from PPS would thus be limited. The Board could also borrow money if necessary. ED/IA stressed that the robustness of the insurance industry would further be enhanced upon implementation of the proposed RBC regime. As for the issue of reinsurance, ED/IA advised that the risks of policies underwritten by insurance companies could not be fully mitigated by reinsurance arrangements. He also pointed out that some foreign companies like the General Electric had suffered substantial losses from their reinsurance business. Regarding insolvency of insurance companies in recent years, DS(FS)2 advised that there were no insolvency of life insurance companies, and only a handful of insolvencies of small non-life insurance companies in Hong Kong in the past two decades.

Levy rate of the Policy Holders' Protection Scheme

33. Mr CHAN Kin-por considered the proposed cap of 1% for the additional levy (to be collected from insurance companies if the Funds were not sufficient to meet all liabilities in case of an insurer insolvency) reasonable and was in line with the level adopted by jurisdictions in the Asian Region including Singapore. He also enquired whether the initial levy rate of 0.07% would be implemented incrementally.

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34. DS(FS)2 advised that the level of any additional levy would require LegCo approval and the rate would be determined having regard to the prevailing circumstances and affordability of the insurance industry. He stressed that it would be unlikely that insurance companies would be required to pay huge amount of levies within a short period of time.

Coverage of the Policy Holders' Protection Scheme

35. Mr CHAN Kin-por relayed the industry's view that PPS should not cover SMEs as while some SMEs had few employees, their capital size was huge. He further pointed out that SMEs were not covered in the Policy Owners' Protection Scheme in Singapore. Mr Holden CHOW sought details on the definition of SMEs under PPS.

36. DS(FS)2 said that there was currently no international standard on the coverage of PPS. The Government proposed to cover SMEs having regard to the feedback of the public consultation in 2011. Many respondents pointed out that the vast majority of companies in Hong Kong (over 80%) were SMEs, which had limited resources to assess the financial ability of insurance companies and were less capable to protect their interests. On the definition of SMEs, the Government proposed to define an SME as a manufacturing business which employed less than 100 persons in Hong Kong, or a non-manufacturing business which employed less than 50 persons in Hong Kong. DS(FS)2 added that the Government would continue engaging the industry on the coverage of PPS.

37. In response to Mr Holden CHOW's enquiry, DS(FS)2 explained that employees' compensation policies were excluded from PPS as insolvency protection for such policies had already been provided by the Employees Compensation Insurer Insolvency Scheme.

Necessity of establishing a ring-fence mechanism on insurance companies

38. Mr Dennis KWOK asked whether the foreign assets of an insurance company registered in Hong Kong would be used to meet the liabilities when the company become insolvent. The Chairman enquired whether a ring-fence mechanism was in place for foreign insurance companies setting up branches in Hong Kong to prevent such companies from transferring their assets in Hong Kong to meet liabilities of their parent companies or other branches in overseas jurisdictions.

39. Chief Executive Officer, Insurance Authority and DS(FS)2 advised that insurance companies could either register or set up branches in Hong Kong. Under IO, non-life insurance companies were required to meet the local assets requirements while life insurance companies were required to set aside separate

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funds for their business in or from Hong Kong respectively. The Government and IA would examine the feasibility of setting up a ring-fence mechanism for foreign insurance companies operating as branches in Hong Kong, and would consult the industry on the matter.

Asset recovery mechanism of the Policy Holders' Protection Scheme

40. Mr Holden CHOW enquired whether eligible policy holders could opt-out of PPS so that they could claim the insolvent insurance company in accordance with existing insolvency law.

41. DS(FS)2 replied in the affirmative. He pointed out that it was not expected that policy holders would choose to do so in the light of the prolonged winding-up process. He advised that the interests of policy holders with residual claims (i.e. the outstanding amount of claims not paid by any of PPS Funds) would not be affected as the Board would only be subrogated to the extent of any compensation and refund of unexpired premium it had made to all the rights and remedies of an eligible policy holder in relation to his protected policies with the failed Scheme member.

Conclusion

42. The Chairman concluded that Panel members raised no objection to the Administration's plan of introducing the Bill into LegCo in the 2018-2019 legislative session.

VI Retention of two supernumerary directorate posts and creation of a supernumerary directorate post in the Financial Services and the Treasury Bureau

(LC Paper No. CB(1)625/17-18(07) — Administration's paper on "Retention and creation of supernumerary directorate posts in Financial Services Branch of the Financial Services and the Treasury Bureau to spearhead various major legislative and policy initiatives"

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LC Paper No. CB(1)625/17-18(08) — 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

43. 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 Government's proposal to retain two supernumerary directorate posts in the Financial Services and the Treasury Bureau, namely an Administrative Officer Staff Grade B post (i.e. DS(FS)3) for two years and an Administrative Officer Staff Grade C post (i.e. Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) 6 ("PAS(FS)6")) for three years. DS(FS)3 said that the two posts would lapse on 1 January 2019. The Government had reviewed the operational need for the two supernumerary posts and considered it necessary to retain them to provide suitable high-level policy steer and inputs on a number of key tasks, including promoting the development of Fintech in Hong Kong, enhanced regulation of money lenders, a legislative exercise to improve the new Companies Ordinance (Cap. 622) ("CO") and matters relating to Hong Kong's participation in the Asian Infrastructure Investment Bank and the Asian Development Bank. In addition, the Government also proposed to create one supernumerary Administrative Officer Staff Grade C post (designated as Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)(Mandatory Provident Fund Reform) ("PAS(FS)(MPF Reform)") for three years to implement a number of initiatives to improve the Mandatory Provident Fund ("MPF") system, including eMPF and policy and legislative matters relating to the long term financial sustainability of the Mandatory Provident Fund Schemes Authority.

Discussion

44. Mr CHAN Chun-ying expressed support for the Administration's proposal. Pointing out that the DS(FS)3 and PAS(FS)6 supernumerary posts had been retained a number of times since 2006 and many tasks taken up by the two posts were ongoing in nature, he asked whether the Administration had considered turning the two posts permanent. Mr CHAN considered that a duration of three years might not be enough for PAS(FS)(MPF Reform) to complete tasks relating to the development of eMPF and enhancement of the MPF

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system. He asked if the Administration would consider extending the duration of the post to, say, five years. Mr CHAN further remarked that the job descriptions for the posts should be as specific as possible.

45. DS(FS)3 responded that the Government had carefully reviewed the need of turning the two supernumerary posts permanent. She emphasised that the Government had to be prudent in putting forward proposals involving the directorate establishment, and thus proposed to extend the DS(FS)3 and PAS(FS)6 supernumerary posts for two and three years respectively, as well as to create the PAS(FS)(MPF Reform) supernumerary post for three years. If the proposal was approved, the Government would review the continued need of the three posts before their expiry having regard to the progress of various tasks taken up by the post holders. She also took note of Mr CHAN's views relating to the job descriptions.

46. Mr CHAN Kin-por expressed support for the Administration's proposal for taking forward various initiatives, in particular the development of Fintech and implementation of eMPF. He pointed out that both the public and the MPF industry were supportive to early implementation of eMPF, with a view to driving down administrative fees and facilitating the consolidation of MPF accounts.

47. Mr CHEUNG Kwok-kwan said that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong supported the Administration's proposal in principle to provide appropriate directorate support to take forward the various initiatives. Pointing out that PAS(FS)6 was designated to provide support to DS(FS)3, he enquired why the proposed duration was different for the two posts.

48. DS(FS)3 said that the main duties of DS(FS)3 included providing high-level steer on the policies and legislation relating to the accountancy sector, corporate insolvency and companies. Among the legislative exercises overseen by DS(FS)3, the Financial Reporting Council (Amendment) Bill 2018 had been introduced into LegCo and was under scrutiny by a Bills Committee, and the bill to amend the new CO was expected to be introduced into LegCo in the second quarter of 2018. Furthermore, the Government was preparing a bill for introducing a new statutory corporate rescue procedure. As the above mentioned tasks were expected to achieve significant progress in the next two years, high-level policy steer from DS(FS)3 in the longer run was to be further ascertained. Taking into account the prudence principle in considering directorate establishment, the Government proposed to extend the DS(FS)3 post for two years at this moment.

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Conclusion

49. The Chairman concluded that Panel members supported the Government submitting the proposal to the Establishment Subcommittee.

VII Construction of the Joint-user Government Office Building in Cheung Sha Wan

(LC Paper No. CB(1)625/17-18(09) — Administration's paper on "Construction of the Joint-user Government Office Building in Cheung Sha Wan")

Briefing by the Administration

50. At the invitation of the Chairman, Deputy Secretary for Financial Services and the Treasury (Treasury)3 ("DS(Tsy)3") briefed members on the Government's proposal to upgrade the construction of the Joint-user Government Office Building in Cheung Sha Wan (to be named as the "Treasury Building") to Category A for relocating some government offices currently accommodated in the Wan Chai Government Offices Compound ("WCGOC"), and those in leased premises. The proposed Treasury Building would provide a net operational floor area of around 26 500 square metres and accommodate offices of various bureaux/departments, a general out-patient clinic, a 100-place child care centre, a 40-place day care centre for the elderly, two recruitment centres and some other facilities including staff lactation rooms, baby care rooms, pantries, facilities for the disabled, etc. The Sham Shui Po District Council ("SSPDC") and local stakeholders had been consulted on the proposed Treasury Building and members of the SSPDC unanimously supported the project. The estimated cost of the project was about $2,281 million in money-of-the-day prices. The Government planned to submit the project for consideration by the Public Works Subcommittee ("PWSC") in April 2018 and seek funding approval of the Finance Committee ("FC") in May/June 2018. Subject to the approval of FC, construction works was targeted to commence in the third quarter of 2018 for completion in the second quarter of 2022.

Discussion

51. Mr CHAN Chun-ying expressed support for the project and enquired about the plot ratio of the proposed Treasury Building. He suggested that when the Administration submitted the proposal to PWSC and FC, it should provide information on the construction floor area and estimated cost per square meter of the proposed Treasury Building, as well as comparison of the estimated cost with

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those of comparable projects. Given that the relocation of WCGOC involved 28 bureaux/departments and the Judiciary with a total staff headcount of over 10 000, as well as construction of nine replacement government buildings, Mr CHAN enquired about the total staff headcount to be relocated to the proposed Treasury Building, and the impact on the relocation exercise of WCGOC if there was delay on the construction of the project.

52. DS(Tsy)3 and Project Director 1, Architectural Services Department ("PD1/ArchSD") said that the site of the proposed Treasury Building was under the approved South West Kowloon Outline Zoning Plan. The overall level of commercial development in the planning area, including the project site, was constrained by the capacity of the transport network and a plot ratio of 8 was therefore imposed to restrict traffic growth. As regards the construction cost, PD1/ArchSD advised that the construction cost per square meter of the proposed Treasury Building was similar to that of other Government office buildings including the Trade and Industry Tower and the Inland Revenue Tower in the Kai Tak Development Area. DS(Tsy)3 added that about 2 000 staff would be accommodated at the proposed Treasury Building. As the programme of the proposed Treasury Building was ahead of most of the other replacement building projects, it was not on the critical path of the WCGOC relocation exercise.

53. Mr Holden CHOW noted that the site of WCGOC would be used for the development of convention and exhibition facilities after completion of the relocation exercise by 2026. To allow members to have a comprehensive picture of the relocation exercise of WCGOC, he asked whether the Administration would consider submitting the proposals of the remaining replacement building projects for members' consideration in one go. He also enquired about the timetable for releasing the development plan of the WCGOC site.

54. DS(Tsy)3 said that the Chief Executive had announced in her 2017 Policy Address the Government's plan to redevelop the site of WCGOC into convention and exhibition venues, hotel facilities and Grade A office space. The Commerce and Economic Development Bureau was working on the details of the development of convention and exhibition facilities in Wan Chai and would consider consulting the relevant Panel(s) as and when appropriate. To facilitate members' consideration, it was the Government's intention to seek the funding approval of FC for the replacement building projects under WCGOC relocation exercise in batches. The Government planned to consult PWSC on the proposed Treasury Building and the Government Data Centre Complex in one go, with a view to securing funding approval of FC for the two projects as well as the Inland Revenue Tower project within the first half of 2018. The Government would seek funding approval for the construction of the Immigration Headquarters and the Tseung Kwan O Government Offices as the next batch, followed by the remaining replacement buildings in due course.

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55. Noting that the Government had increased the car parking spaces in the proposed Treasury Building from 45 to 65, Mr Holden CHOW enquired about the number of parking spaces reserved for visitors and whether the Government would consider adding more parking spaces in the project to cater for the need of visitors. The Chairman sought information on the number of parking spaces designated for use by electric cars.

56. DS(Tsy)3 responded that most of the 65 car parking spaces was provided to meet operational needs of bureaux/departments, and eight parking spaces would be designated for visitors. Subject to the views of SSPDC, the Government would consider opening up more car parking spaces for public use outside office hours. He added that it would be difficult to further increase the number of car parking spaces as further expansion of the underground carpark would not be cost effective and would result in a considerable delay of the project. Government Property Administrator ("GPA") supplemented that the 65 car parking spaces would also be used to meet the operational needs of the general out-patient clinic. On electric cars parking, he said that about 30% of the car parking spaces could provide charging facilities for electric cars.

57. In response to the Chairman's enquiry, GPA advised that the proposed Treasury Building was located about 400 to 500 meters from Nam Cheong West Rail Station and about 600 meters from Cheung Sha Wan MTR Station. The project site was within short walking distance from these stations.

Conclusion

58. The Chairman concluded that the Panel supported the Government's plan to submit the funding proposal to PWSC in April 2018.

VIII Any other business

59. There being no other business, the meeting ended at 12:35 pm.

Council Business Division 1
Legislative Council Secretariat
8 May 2018