立法會
Legislative Council

LC Paper No. CB(1)883/20-21
(These minutes have been seen by the Administration)

Ref : CB1/PL/FA

Panel on Financial Affairs

**Minutes of meeting held on
Monday, 1 March 2021, at 9:30 am
in Conference Room 1 of the Legislative Council Complex**

Members present	:	Hon WONG Ting-kwong, GBS, JP (Deputy Chairman) Hon Abraham SHEK Lai-him, GBS, JP Hon Starry LEE Wai-king, SBS, JP Hon CHAN Kin-por, GBS, JP Hon Mrs Regina IP LAU Suk-yee, GBS, JP Hon MA Fung-kwok, GBS, JP Hon Christopher CHEUNG Wah-fung, SBS, JP Ir Dr Hon LO Wai-kwok, SBS, MH, JP Dr Hon Junius HO Kwan-yiu, JP Hon Holden CHOW Ho-ding Hon SHIU Ka-fai, JP Hon CHAN Chun-ying, JP Hon Kenneth LAU Ip-keung, BBS, MH, JP
Members absent	:	Hon Jeffrey LAM Kin-fung, GBS, JP (Chairman) Hon CHEUNG Kwok-kwan, JP Hon LUK Chung-hung, JP Dr Hon CHENG Chung-tai
Public officers attending	:	<u>Agenda Item IV</u> Mr Aaron LIU Kong-cheung, JP Deputy Secretary for Financial Services and the Treasury (Financial Services)2

Agenda Item V

Mr Aaron LIU Kong-cheung, JP
Deputy Secretary for Financial Services and the Treasury (Financial Services)2

Agenda Item VI

Mr HUI Chark-shum, Sam
Deputy Secretary for Financial Services and the Treasury (Financial Services) Special Duties

Agenda Item VII

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

Ms Candy LAU
Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)3

Ms Olivia CHENG
Senior Manager (Resolution Office) (Policy)1
Hong Kong Monetary Authority

Ms Melissa TSANG
Acting Senior Manager (Resolution Office) (Policy)2
Hong Kong Monetary Authority

Agenda Item VIII

Mr Christopher HUI, JP
Secretary for Financial Services and the Treasury

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

Ms Eureka CHEUNG
Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)5

Attendance by invitation : Agenda Item IV

Mrs Ayesha Macpherson LAU, JP
Chairman (designate) and Non-executive Director
Mandatory Provident Fund Schemes Authority

Ms Alice LAW Shing-mui
Deputy Chairman and Managing Director
Mandatory Provident Fund Schemes Authority

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

Mr Felix SIU Wai-kit
Director (Corporate Services)
Mandatory Provident Fund Schemes Authority

Agenda Item V

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

Mr Clement CHEUNG Wan-ching, GBS, JP
Chief Executive Officer
Insurance Authority

Mr Stephen YIU Kin-wah
Non-Executive Director
Insurance Authority

Mr Ryan CHIU Pit-ming
Director, Corporate Services
Insurance Authority

Mr Christopher LAU Chung-hoi
Secretary
Insurance Authority

Agenda Item VI

Dr WONG Tin-yau, Kelvin, JP
Chairman
Financial Reporting Council

Mr Marek GRABOWSKI
Chief Executive Officer
Financial Reporting Council

Agenda Item VIII

Mr Clement CHAN
Senior Vice President (Operations)
The Hong Kong Mortgage Corporation Limited

Ms Irene MOK
Vice President (SFGS Operations)
HKMC Insurance Limited

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

Staff in attendance : Miss Sharon LO
Senior Council Secretary (1)9

Ms Sharon CHAN
Legislative Assistant (1)4

Action

I Confirmation of minutes of meeting and matters arising

(LC Paper No. CB(1)619/20-21 — Minutes of the policy briefing-cum-meeting on 7 December 2020)

The minutes of the policy briefing-cum-meeting held on 7 December 2020 were confirmed.

Action

II Information papers issued since the meeting on 1 February 2021

(LC Paper No. FS01/20-21 — Fact sheet on "Bond markets in Hong Kong and Singapore" prepared by the Research Office of Legislative Council Secretariat

LC Paper No. CB(1)603/20-21(01) — 2019-2020 Annual Report of the Process Review Panel for the Securities and Futures Commission

LC Paper No. CB(1)613/20-21 — Quarterly Report of the Securities and Futures Commission (October to December 2020))

2. Members noted the information papers issued since the regular meeting held on 1 February 2021.

III Date of next meeting and items for discussion

(LC Paper No. CB(1)604/20-21(01) — List of outstanding items for discussion

LC Paper No. CB(1)604/20-21(02) — List of follow-up actions)

Regular meeting in April 2021

3. Members agreed to discuss the following items proposed by the Administration at the regular meeting scheduled for 9 April 2021 at 10:45 am:

(a) Updates on Financial Services Development Council;

(b) Proposed extension of a supernumerary Administrative Officer Staff Grade C directorate post; and

(c) Directorate staffing proposal on the creation of a new supernumerary Chief Superintendent of Police post.

Action

Proposed discussion items for future meetings

Bond market development in Hong Kong

4. Mrs Regina IP noted that the Research Office of the Legislative Council ("LegCo") Secretariat had prepared a factsheet on "Bond markets in Hong Kong and Singapore" for the Panel, and that the Administration would also provide a paper on bond market development in Hong Kong. She opined that the Panel should discuss the subject in due course, and the Administration should update members on the development of the Islamic bond market in Hong Kong.

Main Board Profit Requirement

5. Ms Starry LEE, Mr Christopher CHEUNG and Mrs Regina IP referred to the market consultation on "Main Board Profit Requirement" conducted by the Hong Kong Exchanges and Clearing Limited ("HKEX") in late 2020, and expressed concern that the proposal of increasing the profit requirement would have negative impact on the competitiveness of the Hong Kong listing platform, and might adversely affect small and medium sized companies in seeking listing on the Main Board. Considering that many companies' businesses had been adversely affected by the coronavirus disease 2019 ("COVID-19") pandemic, they suggested that HKEX should consider deferring the implementation of the proposal. These members stressed that the Panel should discuss relevant issues as soon as possible.

6. The Deputy Chairman said that members' views and suggestions would be conveyed to the Chairman who would consider follow-up actions in consultation with the Administration.

IV Budget of the Mandatory Provident Fund Schemes Authority for the financial year 2021-2022

(LC Paper No. CB(1)604/20-21(03) — Administration's paper on "Mandatory Provident Fund Schemes Authority Budget for the Financial Year 2021-22")

Briefing by the Administration

7. At the invitation of the Deputy Chairman, Chairman (designate) and Non-executive Director, Mandatory Provident Fund Schemes Authority

("C/MPFA") briefed members on the main features of the proposed budget of the Mandatory Provident Fund Schemes Authority ("MPFA") for the financial year 2021-2022. She said that MPFA was a statutory body responsible for the regulation and supervision of the Mandatory Provident Fund ("MPF") schemes and trustees; enforcement of the MPF-related legislation to protect the interests of MPF scheme members; educating and promoting to the public key concepts of the MPF System and MPF investment; and improving the MPF System, including the development of the eMPF Platform to standardize, streamline and automate the administration processes of the MPF schemes with a view to improving operational efficiency and creating room for reducing scheme administration fees for the benefit of scheme members. The eMPF Platform would be built and operated by a wholly-owned subsidiary to be set up by MPFA. It was expected that the hardware and software development of the eMPF Platform would complete by the end of 2022 at the earliest, and the eMPF Platform would come into full operation in around 2025.

8. Regarding the 2021-2022 budget, C/MPFA advised that the estimated expenditure was about $586.59 million, representing "zero growth" in operating expenditure as compared with the revised estimates for 2020-2021. MPFA would maintain the personal emoluments provision for its staff at the 2020-2021 level by making no increase in the total number of budgeted headcounts and not including any provision for salary adjustment for 2021-2022. MPFA started to collect the annual registration fees ("ARF") on registered MPF schemes with effect from 1 October 2020. It was expected that the ARF collected would finance about half of MPFA's expenditure in the initial years, with the shortfall to be met by the balance of the Capital Grant (and investment income therefrom) provided by the Government. The level of ARF would be subject to review and might be revised from the seventh year with a view to achieving full cost recovery for MPFA.

Discussion

Manpower plan

9. Mr CHAN Chun-ying noted that MPFA would maintain the total number of budgeted headcounts at the 2020-2021 level (i.e. 610), and had created 22 project posts for project implementation. He asked whether the 22 project posts were created for taking forward the eMPF Platform project and included under the 49 temporary positions that had been created to counter the impact of the COVID-19 pandemic. Noting that the estimated capital expenditure for 2021-2022 had been increased by 60.4% owing to the higher spending on some system application development projects, particularly system applications to support remote access and video conferencing, Mr CHAN enquired if the total

Action

headcount of 610 could be reduced in the long run after completion of those projects.

10. Mr Christopher CHEUNG enquired if the 610 budgeted headcounts had included the manpower resources required for the development of the eMPF Platform and whether the headcounts could be reduced after the implementation of the eMPF Platform.

11. C/MPFA advised that MPFA had all along been applying financial discipline and had been prudent in managing its resources and controlling its expenditure. She said that since the establishment in 1998, MPFA had been relying mainly on the investment returns from the Capital Grant of $5 billion provided by the Government to meet its set-up and operating expenses. MPFA started to charge ARF on MPF registered schemes with effect from 1 October 2020. She reiterated that ARF was expected to finance about half of MPFA's expenditure in the initial years, with the shortfall to be met by the balance of the Capital Grant (and investment income therefrom), which stood at $2.60 billion as at December 2020.

12. Deputy Chairman and Managing Director, Mandatory Provident Fund Schemes Authority ("DC&MD/MPFA") said that about half of the 610 budgeted headcounts were manpower responsible for enforcement work, including recovering outstanding MPF contributions for employees. As regards the 22 project posts, they were project personnel created for various enhancement programmes, such as those relating to supervision of MPF trustees, and were not related to the development of the eMPF Platform. Another 49 time-limited positions had been created in response to the job creation measures launched by the Government under the Anti-epidemic Fund 2.0. She added that MPFA would continue to exercise stringent cost control, optimize the use of existing manpower resources, review the organization structure and re-engineer its operating processes to cope with the new challenges ahead and the impending changes arising from the eMPF Platform. With the implementation of the eMPF Platform and the digital transformation of MPFA's system and services (e.g. the use of chatbot to provide online enquiry support), there would be room for reducing the budgeted headcounts in a gradual manner in the long run.

13. Mr SHIU Ka-fai noted that while MPFA would freeze its headcounts and salaries in 2021-2022, its fiscal deficit would continue. He sought details on MPFA's manpower and salary increases in the past five years.

14. DC&MD/MPFA advised that MPFA took forward 19 legislative amendment exercises in the past 20 years, leading to increasing demand in MPFA's role in performing its regulatory functions. MPFA's headcounts reached

Action

the highest level in 2011-2012 (i.e. 703) and had been reducing steadily to 610 in 2020-2021 despite increase in its workload and functions. She stressed that the MPFA Management Board conducted annual pay review for staff in accordance with an established mechanism which took into account a number of factors including pay trends in the market and inflation. MPFA had introduced salary freezes several times over the past 20 years.

Income and annual registration fees

15. Mr CHAN Kin-por and Ms Starry LEE considered that MPFA should strengthen its effort in educating the working population about saving for retirement and the purposes of the MPF System as one of the pillars supporting retirement living. Mr CHAN enquired about the basis for projecting an investment income of $39.74 million in 2021-2022, in particular whether the expected return rate of 3.48% was a reasonable estimation in view of the bullish stock market in recent months.

16. C/MPFA said that MPFA recognized the importance of publicity on the MPF System and educating the public, especially the working population, on the benefits of the System as part of the retirement protection framework of Hong Kong. The fully-funded defined contribution arrangement had made the MPF System financially sustainable, without relying on the Government, employers or employees to finance any shortfalls, or placing a burden on the younger generation in the face of Hong Kong's ageing population. She took note of members' views and agreed that MPFA should continue to educate the public about MPF rights and obligations, MPF investments and retirement planning. For instance, MPFA had recently revamped its official website to provide more interactive elements and an enhanced browsing experience for visitors and allow members of the public to obtain MPF information easily and conveniently. Regarding investment income, DC&MD/MPFA said that the expected return of 3.48% for 2021-2022 was based on the advice of external fund manager. She added that as at January 2021, the annualized investment return of the Capital Grant since the establishment of MPFA was 4.87% per annum, and the investment strategy of the Capital Grant would be constantly reviewed by the MPFA Management Board.

17. Mr CHAN Kin-por noted that ARF was calculated at a rate of 0.03% per annum on the projected net asset value ("NAV") of registered MPF schemes. Given that the aggregated NAV of registered schemes stood at around $1,140 billion as at the end of 2020 and was growing, Mr CHAN sought details on how the estimated ARF income of $293.58 million for 2021-2022 was worked out.

Action

18. Mr Christopher CHEUNG noted that the estimated ARF eligible costs for 2021-2022 were nearly $507 million, which was higher than the estimated ARF income of about $294 million. He enquired when the ARF eligible costs could be fully covered by the ARF income.

19. C/MPFA and DC&MD/MPFA said that MPFA started to charge ARF at a rate of 0.03% per annum on the projected NAV of registered MPF schemes since 1 October 2020. The level of ARF was governed by the MPF legislation which stipulated that the amount of ARF must not exceed a level which would enable MPFA to recover the costs incurred, or likely to be incurred, in exercising and performing its functions with respect to registered MPF schemes. The ARF rate would be revised with effect from the seventh year after a review with a view to achieving full cost recovery. Given that the aggregate NAV of registered MPF schemes was growing, it was not expected that there would be significant increase in the ARF level after the review.

Development of the eMPF Platform

20. Ir Dr LO Wai-kwok remarked that the MPF System had all along been criticized for its high administrative fees but low level of investment returns. Sharing the views, Mr Holden CHOW enquired how MPFA could ensure MPF trustees would reduce their fees and charges so that scheme members could benefit from possible cost savings of the eMPF Platform.

21. C/MPFA responded that currently, MPF schemes were operated under a decentralized landscape and heavily relied on paper-based transactions. The eMPF Platform would assist MPF trustees in their discharge of scheme administration functions through standardization, streamlining and automation of the MPF scheme administration processes, and facilitate the switching of the predominantly paper-based MPF-related transactions at present to primarily electronic means in future under the eMPF Platform. Moreover, the eMPF Platform would be owned by a wholly owned subsidiary to be set up by MPFA and operated according to the cost-recovery principle and on a non-profit making basis. It was expected that the eMPF Platform could achieve cost savings from the enhanced operational efficiency and economies of scale, thereby creating room for fee reduction for the benefit of scheme members. She added that statutory requirements would be introduced in the second-stage legislative amendments for the eMPF Platform to the effect that the cost savings, being the difference between the existing scheme administration fees charged by trustees on scheme members and the future scheme administration fees of the eMPF Platform payable by trustees, would benefit scheme members under a "straight pass-on" arrangement. This would ensure any cost savings derived from the Platform operation would be passed directly to scheme members. As regards investment

returns, C/MPFA advised that the MPF System was a long-term saving scheme for retirement and the annualized rate of return of MPF from its inception to January 2021 was 5%, which was higher than the annualized inflation rate of 1.8% over the same period.

22. Ir Dr LO Wai-kwok sought details on the estimated capital expenditure required for the system application development projects for transformation of the MPFA's system to connect with the eMPF Platform, in particular if the expenditure had been included in the approved funding provision for the eMPF Platform project.

23. DC&MD/MPFA clarified that the capital expenditure was mainly for enhancement of existing systems and/or development of new application framework for MPFA's system transformation to support the launch of the eMPF Platform (e.g. for receiving data and reports from the eMPF Platform), and hence the costs would be borne by MPFA.

Early withdrawal of accrued benefits of MPF schemes

24. Ms Starry LEE and Mr SHIU Ka-fai said that members of the public who were in financial distress due to the COVID-19 pandemic had called on the Government to relax the withdrawal conditions of MPF benefits by allowing them to partially withdraw the benefits in their MPF accounts for meeting their immediate needs. They sought MPFA's view in this regard.

25. C/MPFA said that while she recognized that some members of the public were facing financial hardship in the current difficult period of time, it should be noted that any changes to the withdrawal conditions were basically a policy issue and required legislative amendments which should be considered and followed up by the Government. She stressed that when discharging its statutory functions, MPFA had to ensure compliance with the MPF legislation which had clearly stipulated the circumstances where scheme members could withdraw their MPF benefits. She reiterated that the MPF System was designed to enable steady accumulation of MPF benefits in scheme members' accounts for investment and value growth during scheme members' working life. Should the preservation requirement on MPF benefits were to be relaxed and scheme members were allowed to make early withdrawal to meet their short-term financial needs or contingency, the MPF benefits would be leaked from the System and the function of accumulation for value growth would be weakened, thereby undermining the integrity of the MPF System and adversely affected the MPF benefits available to scheme members upon retirement.

Action

V Budget of the Insurance Authority for the financial year 2021-2022

(LC Paper No. CB(1)604/20-21(04) — Administration's paper on "Insurance Authority Budget for the Financial Year 2021-22"

LC Paper No. CB(1)604/20-21(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

26. At the invitation of the Deputy Chairman, the Chairman of Insurance Authority ("C/IA") briefed members on the major work of the Insurance Authority ("IA") in the past year and its priorities in 2021-2022. He said that to minimize the risk of exposure to COVID-19, IA had rolled out and refined a series of temporary facilitative measures since February 2020, such as allowing non-face-to-face distribution of certain protective insurance products and providing a grace period for insurance companies and intermediaries to submit their statutory filings.

27. C/IA said that the group-wide supervision ("GWS") framework would be launched in March 2021, and formulation of the Risk-based Capital ("RBC") regime was achieving good progress. These two measures were important in maintaining market stability and consolidating Hong Kong's status as an international financial centre. In order to promote sustainable development of the insurance industry, IA strove to build Hong Kong into a global risk management centre for large infrastructure projects and a preferred domicile for captive insurers of Mainland corporations participating in the Belt and Road Initiative. The scope of insurable risks of captive insurers set up in Hong Kong would also be widened pursuant to the commencement of the Insurance (Amendment) Ordinance 2020 in March 2021, and IA was actively preparing for the introduction of a bespoke regulatory regime for insurance-linked securities and issuance of the first catastrophe bond.

28. C/IA added that in 2020, IA granted authorization under the Fast Track to two virtual insurers, raising the total number to four. Moreover, IA had processed over 20 000 intermediary licence applications since September 2019, benefitting from an 80% adoption rate of the electronic portal which significantly enhanced

service quality and efficiency. On the other hand, COVID-19 had helped to spur virtual on-boarding for insurance products, with 10 videoconferencing platforms for sale of insurance products secured regulatory approval after successful trial using the Insurtech Sandbox.

29. As regards the focus of work in 2021-2022, C/IA said that some key areas included implementing the GWS regulatory framework, strengthening the link between Hong Kong and Guangdong-Hong Kong-Macao Greater Bay Area ("Greater Bay Area") by establishing after-sale service centres and developing innovative cross-boundary insurance products, as well as commencement of the legislative exercise relating to the RBC regime. C/IA stressed that IA would continue to partner with stakeholders in advancing market development while enhancing the protection for policy holders.

30. The Non-executive Director of Insurance Authority ("NED/IA") briefed members on the financial position of IA and the main features of its proposed budget for 2021-2022. He said that IA had always observed strict discipline and practised agility in deployment of resources. The estimated total income of about $479 million, when matched against the estimated total operating expenditure of about $537 million, resulted in a deficit of about $57 million. This represented a marked improvement as compared to the deficit of $133 million in the revised budget of 2020-2021. Anticipating a volatile macro-economic environment, IA had decided to freeze headcount and staff salary in 2021-2022. In the meantime, fees would be collected from three insurance groups under the GWS framework after their designation in the second half of 2021. The rate of premium levies would rise from the current 0.085% to the target level of 0.1% in April 2021 subject to a cap, and the variable fee rate on insurance companies would increase from the current 0.0026% to 0.0031% in June 2021. He assured members that IA would practise prudent financial management and identify new sources of income with a view to maintaining a reasonable level of reserves in the medium and long term.

Discussion

Manpower plans

31. Mr CHAN Chun-ying welcomed IA's proposed freeze on headcount and staff salary in 2021-2022. Noting that the increase of $38 million in staff costs in the 2021-2022 budget was mainly attributed to the full-year effect of those who had recently joined or would be recruited by IA, Mr CHAN enquired about IA's manpower position in 2021-2022.

Action

32. C/IA advised that due to keen competition by other employers, IA had not yet been able to fill all available vacancies, aggravating the workload borne by existing staff. To tackle this problem, IA had conducted recruitment drives at tertiary institutions and encouraged them to design insurance courses targeted at nurturing young talents.

Expenditure

33. Noting that office rental and related expenses were the major expenditure items for 2021-2022, Mr CHAN Kin-por enquired about the reason for renting a sub-office in North Point which cost approximately $3.3 million per annum.

34. Given the evolving situation of COVID-19, Mr CHAN Chun-ying asked why IA had proposed to increase the other operating expenses by nearly 120% in 2021-2022 to cover items such as duty travel. He also enquired if there were any plans to engage an investment manager to deploy the reserves of IA beyond fixed deposits at a later stage.

35. C/IA advised that the sub-office in North Point was necessary not only to provide accommodation for an expanding workforce, but also to ensure business continuity under unforeseen circumstances. The level of rentals was reasonable as compared with that of the main office in Wong Chuk Hang as well as office premises in the vicinity.

36. As regards duty travel, C/IA said that as IA had to fulfill a representative role in different regional and global fora, official trips were inevitable when the COVID-19 pandemic showed signs of abatement. The Chief Executive Officer of Insurance Authority ("CEO/IA") echoed that the same applied for relevant authorities in the Mainland.

Promoting sustainable development of the insurance industry

37. Ms Starry LEE enquired about IA's work in promoting sustainable development of the insurance industry, especially relating to exploring business opportunities in the Greater Bay Area. Mr Holden CHOW enquired about the progress in taking forward the initiative for Hong Kong insurance companies to establish after-sale service centres in the Greater Bay Area, and IA's work in promoting Hong Kong as a maritime insurance hub.

38. C/IA advised that policy clearance had been given on the establishment of after-sale service centres in the Greater Bay Area to support people living in the Mainland who were holders of insurance policies issued in Hong Kong, and a formal public announcement would be made in due course. IA was also working

with the industry to speed up the development of innovative cross-boundary insurance products. CEO/IA added that the proposal was being pursued under the Mainland and Hong Kong Closer Economic Partnership Arrangement, that discussion was taking place with Shenzhen and Guangdong via video-conferences to preserve the impetus, and that the Hong Kong Federation of Insurers was kept fully in the picture.

39. On maritime insurance, C/IA responded that tax relief put into effect by the Inland Revenue (Amendment) (Profits Tax Concessions for Insurance-related Businesses) Ordinance 2020 would boost competitiveness of Hong Kong in this respect. Furthermore, relentless efforts made by IA had attracted more Protection and Indemnity clubs to domicile or step up their presence in Hong Kong over the past two years. He concluded that the feasibility of introducing requirement for vessels registered in Hong Kong to purchase insurance locally was worth looking into.

Regulatory work

40. Mr SHIU Ka-fai said that the business sector had expressed concern about employees making false claims on occupational injuries arising from a possible loophole in the Employment Ordinance (Cap. 57). While such claims were settled by the insurance companies, the employers concerned would have to bear higher premiums in future. He enquired how IA could help tackle this issue.

41. CEO/IA said that employee compensation business had been affected by issues such as false claims, champerty and prolonged medical treatment which in turn drove up insurance premiums. Through the implementation of measures to tighten up underwriting vigilance and prompt referral of suspicious cases to law enforcement agencies for investigation, the combined ratio had reduced in the first three quarters of 2020 which, if proved to be persistent, could provide the conditions for a moderation of premium rates.

Public education

42. Pointing out that taxi drivers were facing increasing difficulties in taking out third-party insurance and there was an upsurge in premiums, Ms Starry LEE enquired how IA could assist the industry.

43. CEO/IA responded that motor vehicle insurance had suffered serious losses in recent years. Pointing out that the difficulties could only be mitigated by joint commitment from both the insurance industry and transport operators, he said that IA had been assisting the Transport and Housing Bureau in exploring

tools to facilitate more accurate risk assessment such as by procuring insurance coverage for drivers and installing dashboard cameras.

VI Budget of the Financial Reporting Council for the financial year 2021-2022

(LC Paper No. CB(1)604/20-21(06) — Administration's paper on "Financial Reporting Council Budget for the Financial Year 2021-22"

LC Paper No. CB(1)604/20-21(07) — Updated background brief on the work of the Financial Reporting Council prepared by the Legislative Council Secretariat)

Briefing by the Financial Reporting Council

44. At the invitation of the Deputy Chairman, the Chairman, Financial Reporting Council ("C/FRC") and the Chief Executive Officer, Financial Reporting Council ("CEO/FRC") briefed members on the work of the Financial Reporting Council ("FRC") in 2020 and the main features of FRC's proposed budget for the financial year 2021-2022. C/FRC said that the estimated operating and capital expenditure of FRC for 2021-2022 were $104.57 million and $6.29 million respectively. The main operating expenditure item was "staff salaries, bonuses, variable pay and Mandatory Provident Fund contributions". The estimated income for 2021-2022 was about $121.57 million. FRC would not propose any new headcount nor adjust the rate or amount of levies for 2021-2022.

Discussion

Budget of the Financial Reporting Council

45. Noting that one of the assumptions adopted by FRC in projecting its estimated levies income for 2021-2022 was that the average securities market turnover would be $123 billion per day, Mr CHAN Chun-ying considered that this assumption too conservative given the buoyant stock market activities in recent months. He also enquired whether FRC had budgeted any possible income from the item "recovery of costs of investigation", and about the reasons for a reduction in the amount of non-executive directors' fees in the proposed budget for 2021-2022.

Action

46. C/FRC responded that in working out its proposed budget for 2021-2022, FRC had reviewed the historical trading performance of the Hong Kong stock market relevant to the levies calculation. The assumption for the projected levies income had duly reflected the then market situation. While the performance of the local stock market had become bullish after completion of the review concerned, FRC, as a statutory body, had to adopt a conservative stance in handling its budget. As for the income item "recovery of costs of investigation", C/FRC pointed out that FRC referred auditing irregularities in relation to public interest entity ("PIE") engagements which were completed before 1 October 2019 (i.e. the commencement date of the new regulatory regime for PIE auditors) to the Hong Kong Institute of Certified Public Accountants ("HKICPA") for necessary disciplinary actions. Any costs and expenses awarded to FRC by the HKICPA Disciplinary Committee were uncertain and recognized only when awarded. After 1 October 2019, FRC took up the investigation and disciplinary functions in respect of PIE auditors. FRC had no power to order PIE auditors to pay costs and expenses to FRC in its own disciplinary decisions and the proceeds of any pecuniary sanctions would be transferred to the Government's general revenue. As regards non-executive directors' fees, C/FRC explained that FRC's proposed budget for 2021-2022 and approved budget for 2019-2021 had adopted different reporting periods (i.e. April 2021 to March 2022 and October 2019 to March 2021 respectively). The amounts of annual non-executive directors' fees were the same in both budgets.

47. Ms Starry LEE declared that she was a certified public accountant and a consultant of KPMG. She enquired whether there was a statutory mechanism for FRC to reduce its levy rate or amount.

48. C/FRC and CEO/FRC advised that under the Financial Reporting Council Ordinance (Cap. 588), FRC had to review the rate or amount of its levies and consult the Financial Secretary with a view to recommending to the Chief Executive-in-Council that the levies be reduced if the reserves of FRC were more than twice its estimated operating expenses for that financial year. This arrangement was in line with that of other local financial regulators. Since a large component of the estimated reserve funds of FRC was the unspent Government Grant (which could not be used to fund the operating expenditure of FRC when it started collecting levies on 1 January 2022), and FRC would have only started collecting levies for three months by the end of 2021-2022, it was considered that no adjustment to the rate or amount of levies was required for the time being.

Regulatory work of the Financial Reporting Council

49. Pointing out that the accountancy industry, in particular small and medium sized audit firms had been hard hit by the recent economic downturn,

Action

Ms Starry LEE enquired whether FRC would maintain regular contact with and formulate measures to help such firms.

50. Mrs Regina IP noted that FRC was established in the wake of the Asian financial crisis in the late 1990s and various corporate scandals in the United States in the early 2000s for the purposes of enhancing the regulation of the accountancy profession in Hong Kong. She sought FRC's assessment on the quality of audit engagements performed by firms in Hong Kong in comparison with firms in other major financial centres.

51. On the regulation of PIE auditors, C/FRC said that it had become international standard and practice that regulatory regimes for PIE auditors should be independent of the audit profession and be subject to independent oversight by bodies acting in the public interest. The Financial Reporting Council (Amendment) Ordinance 2019 had put in place the new regulatory regime for PIE auditors. He also advised that FRC had been maintaining regular contact with PIE auditors of various sizes since the implementation of the new regime, and stressed that FRC would treat audit firms of different sizes in the same manner. FRC had been categorizing PIE auditors by their annual number of PIE engagements instead of whether they were "Big Four" accounting firms. C/FRC further said that FRC would release its first policy research paper by 15 March 2021 regarding the development of Hong Kong's auditing market for listed entities during the period from 2010 to 2019. The report would illustrate the impact of market concentration, changes in audit fees and the level of non-audit fees, but would not reveal any clear correlation between the size and quality of individual PIE auditors.

52. As regards audit quality, C/FRC advised that the quality of Hong Kong's PIE auditors was on a par with that of other comparable jurisdictions including the United Kingdom. FRC would continue to stay vigilant in discharging its regulatory functions. For instance, FRC promptly initiated an investigation in late February 2021 into the audits of the financial statements of a suspended company for 2017, 2018 and 2019 following the recent release of the financial statements and auditor's reports concerned. CEO/FRC added that FRC published its interim inspection report on PIE auditors in Hong Kong in December 2020. The issues and deficiencies identified in the report were similar to those found in other comparable jurisdictions. The final inspection report would be released in due course, which would shed more light on the quality of PIE auditors in Hong Kong, and could form a better basis for making comparisons of the auditing profession of Hong Kong with that of other jurisdictions.

Action

VII Rules on contractual stays on termination rights in financial contracts for banks under the Financial Institutions (Resolution) Ordinance (Cap. 628)

(LC Paper No. CB(1)604/20-21(08) — Administration's paper on "Financial Institutions (Resolution) Ordinance (Cap. 628) – Financial Institutions (Resolution) (Contractual Recognition of Suspension of Termination Rights – Banking Sector) Rules"

LC Paper No. CB(1)604/20-21(09) — Background brief on proposed rules on contractual stays on termination rights in financial contracts for banks under the Financial Institutions (Resolution) Ordinance (Cap. 628) prepared by the Legislative Council Secretariat)

Briefing by the Administration

53. At the invitation of the Deputy Chairman, Deputy Secretary for Financial Services and the Treasury (Financial Services)1 ("DS(FS)1") briefed members on the Financial Institutions (Resolution) (Contractual Recognition of Suspension of Termination Rights – Banking Sector) Rules ("Rules") to be made by the Monetary Authority ("MA") as the resolution authority ("RA") for banking sector entities under the Financial Institutions (Resolution) Ordinance (Cap. 628) ("FIRO"). She said that the Rules would apply to authorized institutions ("AIs") incorporated in Hong Kong, their Hong Kong incorporated holding companies and certain group companies of the AIs (each a "covered entity"). The Rules would require a covered entity to ensure that a covered contract contained a contractual term or condition to the effect that the parties agreed in a legally enforceable manner to be bound by any suspension of termination rights in relation to the contract that might be imposed by MA under FIRO ("suspension of termination rights provision"). Depending on the type of counterparties to the covered contracts, the Rules would provide for an initial period of 24 months or 30 months for covered entities to ensure that their covered contracts contained the suspension of termination rights provision. She added that the Hong Kong

Monetary Authority ("HKMA") had conducted a public consultation on the policy proposals for the Rules and an industry consultation on the draft text of the Rules. Respondents indicated broad support for the proposed approach to the Rules. The Administration planned to introduce the Rules into LegCo for negative vetting in the second quarter of 2021.

Discussion

54. Noting that HKMA had conducted consultation on the proposed Rules, Mr CHAN Chun-ying asked if views from respondents had been taken into account in finalizing the legislative proposals, and whether there were technical comments which the Administration had not taken on board. He also sought information on the percentage of covered contracts among the total number of financial contracts entered into by AIs in Hong Kong.

55. DS(FS)1 said that HKMA conducted a public consultation from January to March 2020 on the policy proposals for the Rules and received 14 submissions which gave comments or sought clarifications on some technical aspects of the proposals. Moreover, HKMA conducted an industry consultation on the draft text of the Rules from December 2020 to January 2021. Respondents provided technical comments on the draft text of the Rules and indicated areas where further guidance was required from MA. Having considered views received, MA had made appropriate refinements to the legislative proposals. For example, the minimum duration of the initial period for compliance with the Rules had been lengthened from 18 months to 24 months, "other foreign banks" had been removed from the types of counterparties covered by the 24-month initial period, and the definition of "excluded counterparties" had been extended to cover central banks and governments. Moreover, the Administration was in the process of refining the draft Rules to incorporate the suggestion from respondents that short-term inter-bank borrowing should be excluded from the definition of "financial contracts" in the Rules. As regards certain comments such as those seeking clarifications (e.g. the meaning of "material amendments"), HKMA considered it more appropriate to provide further implementation details in a Code of Practice chapter to be issued in the future. Senior Manager (Resolution Office) (Policy)1, Hong Kong Monetary Authority ("SM/HKMA") added that the responses received during industry engagement indicated that the majority of the financial contracts entered into by AIs in Hong Kong were governed by non-Hong Kong law.

56. Mr Christopher CHEUNG said that while he supported the Rules, he was concerned about how an RA could effectively suspend termination rights of the counterparties to financial contracts entered into by covered entities, in particular when the relevant contracts were governed by non-Hong Kong law.

Action

57. DS(FS)1 clarified that FIRO allowed an RA to temporarily suspend the termination right of a counterparty to a qualifying contract entered into by a within scope financial institution ("FI") and its group companies. However, where the relevant contracts were governed by non-Hong Kong law, there were uncertainties as to whether a court in a non-Hong Kong jurisdiction would give effect to a suspension of termination rights imposed by an RA. To address the cross-border risks to orderly resolution arising from the early termination of financial contracts governed by non-Hong Kong law, the proposed Rules required covered entities to include an appropriate provision in their non-Hong Kong law governed financial contracts to the effect that the parties to the contracts agreed to be bound by a temporary suspension of termination rights that might be imposed by MA as an RA under FIRO. DS(FS)1 explained that the proposed Rules were in line with the contractual approach to giving effect to cross-border resolution actions advocated by the Financial Stability Board ("FSB") which had been broadly adopted by FSB members by way of regulations or other enforceable measures.

58. Dr Junius HO enquired about the possible consequences on an AI if it did not comply with the Rules, and what actions would be taken by MA.

59. Mr Holden CHOW sought clarification on whether enforcement actions for non-compliance with the Rules by a cross-border AI would be taken by MA or an overseas RA. He further enquired if creditors and shareholders of an FI under resolution would receive more favourable treatment under the resolution regime than they would have received in a hypothetical winding up.

60. DS(FS)1 reiterated that the Rules would require covered entities to ensure that covered contracts contained a contractual term or condition to the effect that the parties agreed in a legally enforceable manner to be bound by any suspension of termination rights in relation to the contract that might be imposed by MA under FIRO. If an AI failed to comply with this requirement and, in the opinion of MA, this posed a significant impediment to an orderly resolution of the AI, MA might serve a written notice on the AI pursuant to section 14 of FIRO requiring it to take any measures that were in the opinion of MA reasonably required to remove the impediment. Under section 16 of FIRO, an AI which failed without reasonable excuse to comply with the written notice committed an offence. Section 16 of FIRO provided for a fine of $2,000,000 and imprisonment for five years. SM/HKMA supplemented that while the power under section 14 of FIRO might be exercised if MA was of the opinion that significant impediments existed to orderly resolution, HKMA worked closely with individual AIs on resolution planning with a view to identifying and removing any impediments to

Action

AIs' resolvability. The maximum penalty under the Rules would be a fine of $5,000 and imprisonment for six months.

61. As regards the compensation mechanism under the resolution regime, SM/HKMA advised that pre-resolution creditors and pre-resolution shareholders of the FI were eligible for payment of compensation in accordance with the "no creditor worse off than in liquidation" safeguard under the regime if as a result of the resolution of the FI, those pre-resolution creditors and pre-resolution shareholders had received, were receiving or were likely to receive less favourable treatment than would have been the case had winding-up of the FI commenced immediately before its resolution was initiated.

Conclusion

62. The Deputy Chairman concluded that Panel members generally supported the Administration's plan to submit the Rules into LegCo for negative vetting in the second quarter of 2021.

VIII 100% Personal Loan Guarantee Scheme

(LC Paper No. CB(1)629/20-21(01) — Administration's paper on "100% Personal Loan Guarantee Scheme")

Briefing by the Administration

63. At the invitation of the Deputy Chairman, Secretary for Financial Services and the Treasury ("SFST") briefed members on the Administration's proposal to introduce a 100% Personal Loan Guarantee Scheme ("PLGS") for providing a supplementary source of financing to individuals who were suffering from cessation of main recurrent incomes from employment in Hong Kong during the COVID-19 pandemic. He said that Hong Kong permanent residents aged 18 or above would be eligible to apply for loans under PLGS provided they had been unemployed for at least two months at the time of loan application and could demonstrate cessation of main recurrent incomes from employment in Hong Kong. Self-employed individuals, free-lancers, gig or casual workers would also be eligible upon the production of a declaration of unemployment and demonstration of a loss of main recurrent incomes.

64. On details of PLGS, SFST advised that an unemployed person might receive a loan of up to six times his/her average monthly income before unemployment, subject to a ceiling of HK$80,000, and the maximum repayment

period was six years counting from the drawdown of the loan. Moreover, an option of principal moratorium for the first 12 months would be offered under which loan applicants would only be required to pay interest in the first 12 months and to make repayments of principal and interest in the remaining five-year repayment period. An effective fixed interest rate of 1% per annum would be charged, and a borrower would receive a full rebate of the interest payment after the loan was fully repaid by the end of the repayment period. Unlike commercial loans, there was no requirement under PLGS for assessing the repayment ability of loan applicants, including no requirement for satisfying any minimum credit rating or for having no outstanding default. Loan applicants were required to maintain valid bank accounts and must not be subject to any bankruptcy petition or proceedings. The Administration would provide a total loan guarantee commitment of HK$15 billion for PLGS. The Administration planned to submit the funding proposal to the Finance Committee ("FC") for approval in March 2021, with a view to launching PLGS around one month after FC's approval.

(*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)640/20-21(01) on 3 March 2021.)

Discussion

Eligibility and supporting documents

65. Mr SHIU Ka-fai expressed support for the proposed PLGS which could provide a supplementary financing option with low interest rate to help address individuals' immediate financial hardship under the COVID-19 pandemic, and urged the Administration to implement the proposal as soon as possible. He was of the view that the Administration should also consider setting up a short-term contingency unemployment relief fund to provide direct financial assistance for those who had lost their job due to the pandemic. Mr SHIU enquired if an unemployed person with default history on credit card loans would still be eligible to apply for loans under PLGS.

66. Senior Vice President (Operations), The Hong Kong Mortgage Corporation Limited ("SVP/HKMC") advised that there was no requirement under PLGS for assessing the repayment ability of loan applicants, including no requirement for having no outstanding default.

67. Ir Dr LO Wai-kwok said that he supported the proposal, and expressed concern that the Administration had refused to set up an unemployment relief fund. Noting that self-employed individuals were eligible to apply for loans

under PLGS, he sought information on the documents required to be provided by such individuals to prove their unemployment status.

68. Mr Holden CHOW and the Deputy Chairman were of the view that the proposed PLGS could provide a supplementary financing option to help relieve the immediate financial hardship of the unemployed, particularly as the Administration had refused to set up an unemployment relief fund. Mr CHOW enquired if the Administration would consider extending the scope of PLGS to cover employees who were required by their employers to take no pay leave persistently during the pandemic but had not become unemployed. He also urged the Administration to ensure that participating lending institutions ("PLIs") would handle the relevant loan applications in a swift and flexible manner. The Deputy Chairman sought clarification on whether an applicant could make a loan with an amount below HK$80,000 or six times the average monthly income (whichever was the lower) under the proposed PLGS, and whether retirees, particularly new retirees, could also be eligible for PLGS.

69. Mr Christopher CHEUNG said that the Business and Professionals Alliance for Hong Kong supported the proposal in principle, and suggested that the Administration should consider extending the proposed PLGS to cover underemployed persons.

70. SFST reiterated that PLGS aimed to provide a supplementary financing option to help individuals who were suffering from cessation of main recurrent incomes from employment in Hong Kong since the outbreak of the COVID-19 pandemic in early 2020. In designing PLGS, the Administration was mindful of the need to provide a sufficiently wide coverage of unemployed persons. Under the present proposal, the eligibility of PLGS included unemployed persons, and self-employed individuals, free-lancers, gig or casual workers were also covered upon the production of a declaration of unemployment and demonstration of a loss of main recurrent incomes. He stressed that in considering the eligibility for PLGS, the Administration had to strike a proper balance between providing assistance to those in need and ensuring the prudent use of public resources. SVP/HKMC added that any persons who declared themselves as being unemployed and having lost their main recurrent incomes could apply for loans under PLGS, but they would have to provide proofs of their previous employment and main recurrent incomes for at least three months during the period from January 2020 to the scheme's announcement in February 2021; bank statements demonstrating a loss of main recurrent incomes might be accepted by PLIs as documentary proof. The detailed administration arrangements would be worked out with PLIs in due course. As regards the loan amount, SVP/HKMC said that the maximum amount of loan per unemployed person was six times the average monthly income during the specified period, or HK$80,000, whichever was the

lower, and applicants could apply for any amount less than the maximum loan amount.

71. Mr Kenneth LAU asked whether individuals relying solely on incomes from part-time employment for a living and had been unemployed for at least two months, including fresh graduates and school leavers, would be eligible for loans under PLGS. He also sought information on the Administration's measures to assist fresh graduates and school leavers who could not find jobs due to the deteriorating conditions in the labour market. Mr LAU enquired how the Administration could ensure that PLIs would handle the loan applications under PLGS in a prudent manner as PLIs would not be required to bear any default risks because the loans would be transferred to the Hong Kong Mortgage Corporation Limited ("HKMC") after drawdowns and the relevant loan payment was fully backed by the Government's guarantee commitment of HK$15 billion.

72. SFST and SVP/HKMC pointed out that the salient features of PLGS, including its eligibility, the supporting information required in broad terms, loan ceiling, etc., had been set out in the Administration's information paper. HKMC Insurance Limited ("HKMCI") as the scheme administrator would rely on the professional expertise, judgment and care of PLIs in conducting customer due diligence and verification of eligibility of loan applicants. SVP/HKMC added that similar to the Special 100% Loan Guarantee Product under the SME Financing Guarantee Scheme administered by HKMCI ("Special 100% Loan Guarantee Product"), an upfront quality assurance sample check mechanism would be put in place at the application stage. Regarding assistance to fresh graduates and school leavers in seeking jobs, SFST said that the Administration had rolled out a number of programmes to promote youth employment, including the Financial Industry Recruitment Scheme for Tomorrow commissioned by the Financial Services and the Treasury Bureau which sought to create jobs in the financial services industry for local young people.

Loan recovery

73. Ir Dr LO Wai-kwok noted that the Administration had assumed an overall default rate of 25% for loans under PLGS. He enquired about the recovery actions to be taken when a borrower defaulted in loan repayment.

74. Mr Christopher CHEUNG enquired how the Administration would ensure that loans under PLGS could be recovered, and whether it would take actions to recover defaulted loans. The Deputy Chairman enquired if PLIs would hire debt collection companies for loan recovery.

Action

75. Dr Junius HO sought clarification on whether money lenders could participate as PLIs in PLGS. He also sought details on the loan recovery actions to be taken by PLIs and whether they would be responsible for the debt recovery expenses incurred.

76. SFST responded that the assumed default rate of 25% for PLGS had been set making reference to the same rate adopted for the Special 100% Loan Guarantee Product. To avoid possible abuse of PLGS, an effective fixed interest rate of 1% per annum would be charged, but the interest would be fully rebated after the loan was fully repaid by the end of the repayment period. As regards recovery actions, SVP/HKMC and Vice President (SFGS Operations), HKMCI said that where a borrower defaulted on repayment, as a servicer of the loan the PLI concerned would initiate recovery actions having regard to its own policy and usual commercial practice. Necessary enforcement and debt recovery expenses incurred by the PLI in relation to a defaulted loan would be reimbursed via HKMC, including the cost of filing a bankruptcy petition, where necessary. SVP/HKMC further said that PLIs would be banks and did not include money lenders. In response to the Deputy Chairman's enquiry regarding the obligation of guarantor, SVP/HKMC advised that unlike commercial loans, no guarantor was required for loans under PLGS.

Conclusion

77. The Deputy Chairman concluded that the Panel supported the Administration's plan to submit the funding proposal to FC for approval in March 2021.

IX Any other business

78. There being no other business, the meeting ended at 12:25 pm.

Council Business Division 1
Legislative Council Secretariat
7 June 2021