

立法會

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Report of the Panel on Financial Affairs for submission to the Legislative Council

Purpose

This report gives an account of the work of the Panel on Financial Affairs during the 1998-99 Legislative Council session. It will be tabled at the meeting of the Council on 30 June 1999 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

The Panel

2. The Panel was formed by resolution of the Council on 8 July 1998 for the purpose of monitoring and examining Government policies and issues of public concern relating to financial and finance matters. The terms of reference of the Panel are at **Appendix I**.

3. The Panel comprises 22 members, with Hon Ambrose LAU Hon-chuen and Hon Eric LI Ka-cheung elected as Chairman and Deputy Chairman respectively. The membership list of the Panel is at **Appendix II**.

Major work

4. After the Government's unprecedented operation in the local stock and futures markets in August 1998, the Panel took the first opportunity to invite the Administration to brief members on the operation. Apart from analysing the background leading to the operation, the Panel also invited renowned local and overseas scholars as well as market practitioners to give views on the operation, the mechanism for defending the linked exchange rate system and measures subsequently introduced by the Government to strengthen the currency board arrangements and the transparency and order of the financial markets. Members noted that the Government had launched the operation to restore the order of the stock and futures markets by combating those currency speculators who aimed to reap profits from cross-market manipulation, as part of its overall strategy to defend the linked exchange rate and the integrity of the financial markets. While maintaining their staunch support for the

linked exchange rate system, members expressed mixed views on the operation. Some acknowledged that the actions taken had helped prevent a possible collapse of the stock and futures markets, hence avoiding a further threat to the confidence in the Hong Kong dollar. Others however queried the justifications for spending huge sums of public money in the operation, and were concerned about the lack of consultation and transparency of the operation. Members generally had reservations about the Government holding large quantities of stocks over a prolonged period due to the issue of conflict of interests and the need to maintain a level playing field for all market players.

5. Members welcomed the new measures introduced by the Government to strengthen the currency board arrangements such as the expansion of the monetary base by accepting the Exchange Fund Bills/Notes for overnight Hong Kong dollar liquidity through the Discount Window and the Convertibility Undertaking to convert Hong Kong dollars in banks' clearing accounts into US dollars at the fixed exchange rate of \$7.75 to US\$1. However, regarding the 30-point programme to enhance the transparency and order of the securities and futures markets, concerns were expressed by some members about the impact of empowering the Chief Executive of the Hong Kong Special Administrative Region to give directions to the exchanges and clearing houses on the independence of relevant bodies and the possible repercussions of some other measures on market development. Members also noted the industry's concerns about increasing the penalties for illegal short selling and making unreported short selling a criminal offence.

6. On the management of the \$120 billion worth of securities procured in the operation, members noted the setting up of the Exchange Fund Investment Limited by the Government in October 1998. Members also noted the divided views amongst academics and market practitioners on ways and timing of disposing the shares. Nevertheless, the Panel urged the Government to take steps to restore local and overseas investors' confidence in the market and remove doubts about Hong Kong's determination to maintain a free-market economy and the linked exchange rate system. As there was currently no international standard or agreement governing the operations of hedge funds including disclosure requirements on massive fund flows, the Government undertook to make effort to encourage international cooperation to ensure the stability of the international financial market.

7. The Panel continued to keep a close watch over the progress of implementation of the recommendations in the Financial Market Review completed in April 1998 and the measures in the 30-point programme to enhance the order and transparency of the securities and futures markets, such as tightening up of the settlement rules of T+2 by Hong Kong Securities Clearing Co Ltd. On advancing the migration of Hang Seng Index futures and options trading from the open out-cry mode to an automated trading system from end of 1999 to the third quarter of 1999, the Panel sought a progress report on the project in May 1999 and urged careful planning of the migration schedule to ensure Hong Kong Futures Exchange (HKFE) members' readiness for a successful transition to the automated system.

8. On monitoring the regulatory work and developments in the financial services sector, the Panel sought a progress report on the implementation of the Mandatory Provident Fund System and examined the annual reports and/or budgets of the Hong Kong Monetary Authority (HKMA) and Securities and Futures Commission. The Panel also examined carefully the year 2000 compliance programmes of each segment in the financial services sector and sought to be briefed on the outcomes of major testing activities.

9. As the House Committee has agreed that the Panel should be tasked with the responsibility to invite the Administration to brief the Panel, as well as all other Members, on macro economic issues such as overall economic performance, measures to revive and revitalize the economy, etc., the Panel invited the Financial Secretary to brief Members on the overall economic development of Hong Kong. It had also sought a briefing from the Administration on the outcome of the meeting of the Chief Executive's Council of International Advisers (the Advisers). Members noted that the Advisers had advised on broad strategic issues pertinent to the long-term development of Hong Kong, such as the importance of upholding the dollar link and the need for further improvements in efficiency and further downward adjustment in cost structure with a view to make Hong Kong stay ahead in the region.

10. During the session, the Administration consulted the Panel on a number of proposals, including new investor compensation arrangements for clients of members of the Stock Exchange of Hong Kong (SEHK), a new formula for determining the interest rate on certain government loans, statutory procedures for corporate rescue and results of the Hong Kong Banking Sector Consultancy Study. Members were also briefed on the advantages of the Financial Secretary's decision to align the investment policies of the Land Fund and the Exchange Fund by merging their assets. On lifting the moratorium on government fees and charges upon its expiry in September 1999, the Panel objected to the proposal mainly for the reason that there were still uncertainties as to when the economic recovery would take place. The Financial Secretary subsequently announced that the Government would suspend the lifting of the moratorium until the year on year GDP growth rate turned firmly positive.

11. The corporate rescue procedure as recommended by the Law Reform Commission (LRC) involved the introduction of statutory "provisional supervision" to allow for the working out of arrangements that would assist a viable business to survive, and the use of the Protection of Wages on Insolvency Fund (PWIF) to accommodate claims of employees who were laid off by companies entering into corporate rescue. On the proposal, some members expressed concern over whether employees' rights would be compromised under the proposed scheme, whilst others considered that the LRC proposal, with some modifications, should be workable. Some supported paying the laid off employees during the provisional supervision from PWIF first and recouping the full amount from the company as a priority debt in a voluntary arrangement among creditors. After conducting a public consultation, the Administration recommended the approach of requiring the company undergoing

corporate rescue to be responsible for clearing all arrears of wages, severance pay and other statutory entitlement of its employees as if it was a going concern. In examining the recommendation, members requested the Administration to ensure that the statutory procedures were workable and some requested more favourable arrangements for rescue of small and medium enterprises.

12. The Panel was consulted on the findings and recommendations of the Hong Kong Banking Sector Consultancy Study, which were released in December 1998. Members exchanged views with HKMA on various issues in the study including the extent and timing of deregulation of the remaining Interest Rate Rules, i.e. those on current accounts, savings accounts and time deposits up to 6-days, and implementation of enhanced explicit depositor protection scheme.

13. The Panel was briefed on a number of legislative proposals prior to their introduction into the Council. These included the Securities (Amendment) Bill 1998, the Securities (Insider Dealing) (Amendment) Bill 1998, Introduction of the Euro Bill, Securities (Margin Financing) (Amendment) Bill 1999, Tax Reserve Certificates (Amendment) Bill 1999, Insurance Companies (Amendment) Bill 1999 and the Banking (Amendment) Bill 1999.

14. During the period from July 1998 to June 1999, the Panel held a total of 21 meetings, of which one was a joint meeting with the Planning, Lands and Works Panel. At the joint meeting, members discussed with the Administration appointment of consultants to undertake public works projects and estimation of consultancy fees. At members' request, the Administration undertook to include more information on revised total cost estimates in the report to the Council on projects finalized during a fiscal year to facilitate financial monitoring of these projects. During the session, the Panel also conducted a visit to SEHK and HKFE to observe their operations and discuss with the management teams the respective development of the exchanges.

Legislative Council Secretariat

24 June 1999