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18 April 2001

Mr Joseph C K YAM, JP  
Chief Executive  
Hong Kong Monetary Authority  
30<sup>th</sup> Floor, 3 Garden Road  
Central  
Hong Kong

Dear Mr Yam,

**LegCo Panel on Financial Affairs  
Special Meeting on 20 April 2001**

I refer to the Financial Secretary's letter of 12 April 2001 addressed to the Chairman of the LegCo Panel on Financial Affairs. The letter was copied to members of the Panel today and it is attached to this letter for your easy reference.

I should be grateful if you would respond to some of my questions and observations on legal issues raised in the Financial Secretary's letter set out below so that members of the Panel could be assisted on them when they meet with you on 20 April, 2001:

- a) Have there been any policy statements made by the Administration on the objectives for enacting section 6?
- b) In what manner have office rentals paid by the Hong Kong Monetary Authority (HKMA) since its establishment been accounted for in the accounts of the HKMA and/or the accounts of the Government of the HKSAR?

- c) If "staff costs" in section 6(a) should include expenditure for the acquisition of premises what other items of expenditure are considered to be covered by "staff costs" apart from costs paid to or in respect of staff employed in connection with the purpose of the Exchange Fund?
- d) Since the approval required of the Financial Secretary under the proviso to section 6 is only confined to the number of appointments and the emoluments of staff but not "other staff costs", it seems a reasonable construction that "staff costs" was intended to cover expenditures of less significance than emoluments in terms of their nature and magnitude.
- e) Would it be more appropriate if the expenditure for acquisition of permanent office accommodation be considered as "incidental expenditure" within the meaning of section 6(b) of the Ordinance if the acquisition is considered to be necessary for the due performance of duties of the Financial Secretary and the Advisory Committee in connection with the operation of the Exchange Fund?
- f) What are the justifications for categorizing the expenditure for acquisition of real property as administrative expenses in view of the extent of the financial commitment and its non-recurrent nature?
- g) It does not appear to be a legal requirement that expenditures purportedly made under section 6(a) require the vetting and approval of the Exchange Fund Advisory Committee. What was legal basis for seeking the Committee's approval referred to in the last paragraph on page two of the Financial Secretary's letter?

I apologize for not sending you this letter earlier. However, I hope you will appreciate that it was only until yesterday that I saw a copy of the Financial Secretary's letter and realized that legal issues relating to the proper use of the Exchange Fund may be discussed at the meeting on 20 April 2001.

Yours sincerely,

(Jimmy MA)  
Legal Adviser

cc Chairman of the LegCo Panel on Financial Affairs