

## **Chapter III : Financial Services**

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3.1 At the Chairman's invitation, the Secretary for Financial Services and the Treasury (SFST), Mr Frederick MA, highlighted major financial services programmes under his purview in 2003-04 (Appendix V-2).

### **Provision for the programme area of Financial Services**

3.2 Mr SIN Chung-kai noted that the estimated provision for the programme area of financial services for 2003-04 was 6.9% higher than the revised estimate for 2002-03. Since Government bureaux/departments were required to reduce their operating expenditure by 1.8% each year, Mr SIN asked how the Financial Services and the Treasury Bureau (FSTB) could achieve the Government's target in cutting down public expenditure. In reply, the Permanent Secretary for Financial Services and the Treasury (Financial Services) (PSFS) said that in preparing the estimated expenditure for 2003-04, FSTB aimed at achieving more than 1.8% savings in operating expenditure, as reflected in the estimated provision for financial services in 2003-04 which was 2.5% lower than the approved estimate for 2002-03. PSFS pointed out that this level of provision was the lowest possible level without unduly affecting the provision of service. FSTB might be able to achieve further reduction in operating expenditure in 2004-05 following the outsourcing of some of the work currently undertaken by the Official Receiver's Office. In the long run, making separate provision for the Insurance Authority would bring about a significant reduction in the Bureau's operating expenditure.

### **Staffing for the Financial Services and the Treasury Bureau**

3.3 Ms Emily LAU noted that the revised estimate for acting allowance for 2002-03 and the estimate for 2003-04 had shown substantial increase over the actual expenditure for 2001-02. She enquired about the reason for the increase and whether this was a result of the implementation of the accountability system for principal officials since July 2002.

3.4 PSFS and the Deputy Secretary for Financial Services and the Treasury (Treasury)1 (DS(Tsy)1) responded that acting allowance was paid to officers acting on a short-term basis to undertake duties of other officers on leave, or on a longer term basis to perform duties at a higher rank. PSFS explained that the increase in estimated expenditure on acting allowance for FSTB (Financial Services Branch) for 2002-03 and 2003-04 was mainly due to the increase in the number of relatively junior officers acting in a higher rank. He added that under existing practice, officers identified to possess potentials for advancement were

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usually given the opportunity to act up on a long-term basis with a view to testing their abilities at a higher rank.

3.5 As to whether the Administration would review the current practice of payment of acting allowance to officers acting on a short-term basis, SFST said that the overall policy on acting allowance was under the purview of the Secretary for the Civil Service, who planned to conduct a comprehensive review on various allowances. SFST and DS(Tsy)<sup>1</sup> pointed out that while some new posts had been created upon the implementation of the accountability system for principal officials, acting allowances would only be incurred if officers were on acting appointment. Nevertheless, acting appointments, even if on a longer term basis, would not increase the total expenditure on personal emoluments for the Bureau as the acting allowance plus the substantive salary received by these officers would be equivalent to the starting point of the pay scale for the higher rank in which they were acting.

### **Provisions for the Insider Dealing Tribunal, the Securities and Futures Appeals Panel and the Securities and Futures Appeals Tribunal**

3.6 Mr Henry WU noted that in 2002-03, the Insider Dealing Tribunal (IDT) had handled a total of nine cases among which three had been completed, three were still under hearing or appeal and three others being processed pending commencement of hearing. He sought information on the detailed breakdown of the expenses in respect of these nine cases in 2002-03. To facilitate comparison of the operating expenditure of the Securities and Futures Appeals Panel (SFAP) with that of the Securities and Futures Appeals Tribunal (SFAT) to be set up upon the commencement of the Securities and Futures Ordinance (Cap.571) (SFO) on 1 April 2003, Mr WU requested a breakdown by expenditure items under the provision for SFAP in 2002-03 and the estimated provision for SFAT for 2003-04.

3.7 PSFS undertook to provide the supplementary information. He also explained that the provision for the operation of IDT was estimated on the basis of the caseload in the previous year. The estimate was to a certain extent a notional sum, given the uncertainty over the actual number of cases received and the complexity of the cases. In preparing the estimate for 2003-04, the Administration had encountered more uncertainty as the anticipated caseload of the Market Misconduct Tribunal (MMT) and SFAT could not be readily ascertained until after their establishment. The number of cases to be handled in 2003-04 was expected to be higher than that in 2002-03 as a result of the impending hearings of the remaining insider dealing cases, as well as the

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anticipated increase in MMT/SFAT cases in view of their wider ambit. Taking into account the various costs and expenses involved, the estimated average cost of each IDT/MMT case would be about \$1.471 million and thus the total cost of processing an anticipated number of 10 cases was \$14.710 million. PSFS added that the estimated provision would be subject to revision in the light of the actual number of cases processed in 2003-04.

### **Operating expenditure of the Hong Kong Monetary Authority**

3.8 Pointing out that the operating expenditure of the Hong Kong Monetary Authority (HKMA) was funded by the Exchange Fund and not from the General Revenue, Mr SIN Chung-kai was gravely concerned about the transparency over HKMA's expenditure proposals. He suggested that the Administration should actively consider measures to enable the Legislative Council (LegCo) to examine and monitor the budget of HKMA.

3.9 The Deputy Chief Executive, HKMA advised that the budget of HKMA was approved by the Financial Secretary (FS) in consultation with the Exchange Fund Advisory Committee. Although the estimated provision of HKMA was not examined by LegCo in the context of the Government's Annual Estimates, the Chief Executive of HKMA briefed the Panel on Financial Affairs regularly on the work and accounts of HKMA. The next briefing was scheduled for May 2003.

3.10 Mr SIN Chung-kai maintained his view that apart from briefings by the Chief Executive of HKMA, steps should be taken to increase the transparency of HKMA so that LegCo could play a greater role in overseeing the Authority's expenditure. Ms Emily LAU shared Mr SIN's view and recalled that the Panel on Financial Affairs had discussed the budget of the Securities and Futures Commission. In response, SFST said that HKMA was under the purview of FS and he would relay members' concerns to FS for consideration.

### **Corporate governance in Hong Kong**

3.11 Ms Emily LAU queried the progress of the "consultancy study on corporate governance in Hong Kong", for which provision had been made since 2001-02. She was gravely concerned that Hong Kong should take such a long time to undertake the review on corporate governance while other jurisdictions such as the United States had already formulated the necessary legislation. In addition, she questioned the rationale for engaging Freshfield Bruckhaus Deringer

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(the Freshfield) to conduct researches and studies on the recommendations which had been drawn up by the Standing Committee on Company Law Reform (the Standing Committee) after careful review.

3.12 In response, PSFS explained that the consultancy study on corporate governance in Hong Kong comprised four separate studies. The Standing Committee, on the other hand, had been undertaking a mammoth task of reviewing company laws in Hong Kong with a view to bringing the provisions in line with the best international practices. In the course of examining the provisions in the relevant legislation, the Standing Committee had on occasions sought the assistance of the Administration in conducting researches. PSFS pointed out that as the four studies straddled more than a year, payments to the consultant were made by instalments over the period from 2001-02 to 2003-04. While the studies had been substantially completed, there was still outstanding payment to be made in 2003-04. He advised that the Standing Committee would take into account the findings of the studies in formulating proposals under its Phase II Corporate Governance Review, for which a consultation exercise would be conducted in 2003-04. PSFS remarked that as the Companies Ordinance (Cap.32) was a highly elaborate and complex piece of legislation, the process of reform would inevitably take time. This was also the case for company law reform in other jurisdictions, such as the United Kingdom, which took several years to complete.

3.13 SFST explained that the research and studies undertaken by the Freshfields were different from the "consultancy study on corporate governance in Hong Kong" as the former studies focused on the implications of adopting a system of no-par value shares in Hong Kong. He pointed out that the Administration's plans on enhancing the quality of the equity market through efforts to bring the corporate governance of companies in line with international standards were set out in the Corporate Governance Action Plan for 2003 presented to the Panel on Financial Affairs on 13 January 2003.

3.14 Referring to SFST's remarks that the Administration would follow up the recommendations of the Expert Group appointed by FS for improving the existing listing regime and regulatory framework, Mr Henry WU asked whether provision had been made in the 2003-04 Estimates for this purpose. PSFS and SFST explained that as the Expert Group had only submitted its report to FS on 21 March 2003, which was beyond the deadline for preparation of the 2003-04 Estimates, provisions could not be made in 2003-04 for implementing the recommendations of the Expert Group.

### Consultancy studies

3.15 Noting that there was a significant increase of \$2 million and \$2.36 million respectively in the estimated cashflow for 2003-04 over the revised estimate for 2002-03 in relation to the "consultancy study to review the future role and functions of the Official Receiver's Office" and the "consultancy study on the feasibility of establishing policyholders' protection funds", Mr Henry WU enquired about the reason for the increases.

3.16 In reply, the Official Receiver advised that the "consultancy study to review the future role and functions of the Official Receiver's Office" was commissioned in 2000 in response to the value-for-money report of the Director of Audit. The consultant had presented its final report in August 2002 and FSTB was considering its findings and recommendations in consultation with the Official Receiver's Office. He further clarified that the approved commitment for the study was \$9.2 million and the estimated cashflow for 2003-04 represented the amount required for making payment to the consultant in the coming year.

3.17 The Commissioner of Insurance advised that as the "consultancy study on the feasibility of establishing policyholders' protection funds" would be conducted over a period of two years, payments to the consultant would be made by instalments upon completion of a progress report and the final report. He said that as the study had only commenced in December 2002, the cashflow requirement for 2002-03 was therefore lower than that estimated for the 2003-04 financial year.

3.18 In this connection, DS(Tsy)1 supplemented that the approved commitment under sub-head 700 "General other non-recurrent" represented the upper limit for the expenses for the relevant consultancy study under each item. Within the approved funding, individual department/bureau could work out the cashflow arrangements during the period of the study. The estimated expenditure for a particular financial year only reflected the estimated cashflow requirement for the year in question. The total expenditure was capped by the approved commitment for the study in question.

3.19 Referring to the non-recurrent item "Hire of econometric modelling services to enable projections on government revenues and fiscal position", Ms Cyd HO asked whether psychological and political factors would be taken into consideration when making the projections. She opined that if these relevant factors were not considered, the projections on government revenues and fiscal

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position simply based on econometric modelling would not be realistic.

3.20 In reply, the Government Economist advised that with the approved provision, two non-civil service contract staff with expertise in econometric modelling had been appointed for one-year. The findings from econometric modelling would be presented to FS, SFST and the responsible officers of FSTB (Treasury Branch) for reference. He confirmed that in making projections on government revenue and fiscal position, the findings from econometric modelling, as well as other relevant factors such as psychological and political ones, would be taken into consideration.

