立法會
Legislative Council

LC Paper No. CB(1) 919/02-03
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by the Administration)

Ref : CB1/PL/FA/1

Panel on Financial Affairs

Minutes of meeting held on
Monday, 6 January 2003 at 10:45 am
in the Chamber of the Legislative Council Building

Members present	:	Hon Ambrose LAU Hon-chuen, GBS, JP (Chairman) Hon Henry WU King-cheong, BBS, JP (Deputy Chairman) Hon Kenneth TING Woo-shou, JP Hon Albert HO Chun-yan Hon LEE Cheuk-yan Hon Eric LI Ka-cheung, JP Dr Hon David LI Kwok-po, GBS, JP Hon NG Leung-sing, JP Hon James TO Kun-sun Hon Bernard CHAN, JP Hon CHAN Kam-lam, JP Hon SIN Chung-kai Dr Hon Philip WONG Yu-hong Hon Jasper TSANG Yok-sing, GBS, JP Hon Emily LAU Wai-hing, JP Hon Abraham SHEK Lai-him, JP Hon MA Fung-kwok, JP
Member absent	:	Hon James TIEN Pei-chun, GBS, JP
Public officers attending	:	**Agenda Item IV** <u>Hong Kong Monetary Authority</u> Mr Raymond LI Executive Director (Banking Development)

Financial Services and the Treasury Bureau

Mr Edmond LAU
Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)

Agenda Item V

Financial Services and the Treasury Bureau

Miss Susie HO
Deputy Secretary for Financial Services and the Treasury (Financial Services)

Office of the Commissioner of Insurance

Mr Benjamin TANG
Commissioner of Insurance

Mr Ros LAM
Assistant Commissioner of Insurance (Policy & Development)

Agenda Item VI

Financial Services and the Treasury Bureau

Mr Frederick MA
Secretary for Financial Services and the Treasury

Mr Alan LAI
Permanent Secretary for Financial Services and the Treasury (Treasury)

Miss Elizabeth TSE
Deputy Secretary for Financial Services and the Treasury (Treasury)(3)

Government Supplies Department

Mrs Stella HUNG
Director of Government Supplies

Printing Department

Mr David TSUI
Government Printer

Government Land Transport Agency

Mr Peter WALKER
Government Land Transport Administrator

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

Staff in attendance : Mr Joey LO
Assistant Secretary (1)1

Ms Christina SHIU
Legislative Assistant

Action

I Confirmation of minutes of meetings and matters arising
(LC Paper Nos. CB(1) 502, 570 and 590/02-03)

The minutes of meetings held on 25 October, 4 November and 11 November 2002 were confirmed.

II Information papers issued since last meeting

(LC Paper No. CB(1) 520/02-03	--	Issues referred by the Panel on Administration of Justice and Legal Services on granting of tax relief for divorced persons paying maintenance to ex-spouses and submission of views on the budget deficit;
LC Paper No. CB(1) 574/02-03	--	Hong Kong 2001 Population Census — Thematic Report — Ethnic Minorities;
LC Paper No. CB(1) 592/02-03	--	Discussion Paper on Insurance Issues under the Anti-discrimination Legislation provided by the Equal Opportunities Commission;

LC Paper No. CB(1) 593/02-03	--	New Education Leaflet — "Ten Questions to Ask Before Investing in a Fund" provided by the Securities and Futures Commission; and
LC Paper No. CB(1) 595/02-03	--	Hong Kong 2001 Population Census — Thematic Report — Persons from the Mainland Having Resided in Hong Kong for Less Than 7 Years)

2. Members noted that the above five papers were issued for members' general information in December 2002.

III Date of next meeting and items for discussion
(LC Paper Nos. CB(1) 588/02-03(01), 588/02-03(02) and 622/02-03(01))

Regular meeting on Thursday, 13 February 2003 at 4:30 pm

3. Members agreed to hold the next regular meeting on Thursday, 13 February 2003 at 4:30 pm to discuss the following items.

(a) Briefing by the Chief Executive of the Hong Kong Monetary Authority;

(b) Briefing on the proposed Boundary Facilities Improvement Tax; and

(c) Consultancy Study on the Review of the Role of the Official Receiver's Office.

Policy briefing on the Chief Executive's 2003 Policy Address

4. The Chairman informed members that the House Committee decided at the meeting on 6 December 2002 that individual Panels should decide on the need for conducting policy briefings on the coming Policy Address. He consulted members on the need for inviting Secretary for Financial Services and the Treasury to brief the Panel.

5. Members agreed that the Panel should hold a special meeting for the briefing on the 2003 Policy Address. The date and time for the briefing would be scheduled in consultation with the Administration.

(*Post-meeting note:* The special meeting was scheduled for 11 February 2003 from 5:30 pm to 6:30 pm and subsequently re-scheduled on 13 January 2003 from 6:00 pm to 7:00 pm.)

Request by Mr SIN Chung-kai to discuss subject on enhancement of regulation of listed companies

6. The Chairman referred members to Mr SIN Chung-kai's letter dated 2 January 2003 (LC Paper No. CB(1) 622/02-03(01)) which requested the Panel to conduct a public hearing inviting representatives from the Administration, the Securities and Futures Commission (SFC), Hong Kong Exchanges and Clearing Ltd. (HKEx), market intermediaries, professionals and academics to discuss ways to enhance the regulation of listed companies. In particular, Mr SIN suggested that the Hong Kong Society of Accountants, which had recently put forward a number of proposals on the subject, should be invited.

7. The Chairman reminded members that when the Panel discussed the subject "Procedures for vetting and approving companies incorporated in Mainland China and overseas jurisdictions for listing on the Stock Exchange of Hong Kong Limited, and monitoring of compliance of these companies with the relevant listing agreements" on 25 October 2002, issues relating to enhancing the regulation of listed companies in general were raised. The Administration, in collaboration with SFC and HKEx, was requested to provide supplementary information in response to questions raised by Mr Henry WU and Mr James TO. As the Administration's response was still outstanding, members agreed to defer discussion on how to follow up on Mr SIN's request after members had perused the response. Meanwhile, members agreed that the item be incorporated in the outstanding items list of the Panel.

IV Progress on the establishment of the Deposit Protection Scheme

(LC Paper No. CB(1) 588/02-03(03))

8. Upon the Chairman's invitation, the Executive Director (Banking Development), Hong Kong Monetary Authority (ED(BD)/HKMA) briefed the Panel on HKMA's latest recommendations on how the proposed Deposit Protection Scheme (DPS) in Hong Kong should be structured.

Proposed Major Design Features and Implementation of the DPS

9. ED(BD)/HKMA advised that the majority of the opinions received from the HKMA consultation exercise supported the DPS to confine its role to a “pay box”. There was also support for the establishment of a separate legal entity to oversee the operations of the scheme in order to offer greater accountability. It was therefore proposed to establish a new statutory body -- the Hong Kong Deposit Protection Board (HKDPB) to administer the DPS and to appoint HKMA as the agent to carry out the day to day administration of the scheme. The decisions of the HKDPB would be subject to the review of the independent Deposit Protection Appeals Tribunal. ED(BD)/HKMA added that participation by licensed banks in

the scheme would be mandatory. The coverage limit would be set at $100,000 per depositor per bank. As regards funding for the DPS, ED(BD)/HKMA said that the DPS fund would be established by means of contributions from banks based on their respective "CAMEL rating". On average, the rate of contribution payable by banks until the first year in which the target fund size was reached was 0.08%, and there after at 0.01%. It was expected that the proposed target fund size of 0.3% of the banking sector's total amount of protected deposits (approximately $1.6 billion based on the level of protected deposits as at August 2002) would be reached in approximately five years. ED(BD)/HKMA further advised that the HKMA was currently consulting the banking industry on the draft Bill. It was expected that the Bill would be introduced into the Legislative Council in the first half of 2003. Depending on the progress of the necessary preparatory work, the scheme could commence operation in 2005.

Discussion with Members

Exemption from the DPS

10. Mr Bernard CHAN noticed that under the proposal, an overseas incorporated bank could apply for exemption from participating in the DPS if the deposits taken by the bank's Hong Kong offices were protected by a scheme in the bank's home jurisdiction and the scope and level of protection afforded by that scheme were not less than under the DPS in Hong Kong. He enquired about the number of overseas incorporated banks in Hong Kong which would be eligible for the exemption.

11. In reply, ED(BD)/HKMA remarked that few overseas incorporated banks with DPSs established in their home jurisdictions would offer protection for deposits taken by their overseas offices. The DPS set up by Germany was one of the few systems which provided for such protection. Hence, it was envisaged that few overseas banks operating in Hong Kong would be eligible for exemption from the DPS.

12. On Mr Henry WU's concern that the proposed exemption for overseas banks and possible higher level of compensation in overseas DPSs would encourage depositors to move their deposits to overseas banks, ED(BD)/HKMA remarked that as the DPS in Hong Kong was basically a protection scheme for small depositors, it was unlikely that small depositors would be lured to move their deposits to overseas banks.

Deposit Protection Appeals Tribunal

13. In response to Mr NG Leung-sing's enquiry about the composition and purview of the proposed Deposit Protection Appeals Tribunal, ED(BD)/HKMA replied that the Tribunal would consist of independent members appointed by the Chief Executive from relevant fields. The Tribunal would be empowered to

review the decisions of the HKDPB, including those relating to the determination of compensation payments, exemption from the DPS, and the assessment of contributions payable by banks. As to Mr Henry WU's concern about possible role conflict for the Tribunal to determine the amount of compensation and receive appeals at the same time, ED(BD)/HKMA stressed that the HKDPB and the Tribunal were two separate entities. The HKDPB would determine the amount of compensation whereas the Tribunal would receive appeals against the determination of the Board. There would be no role conflict between the two bodies.

Contributions from banks and the CAMEL rating system

14. As contributions towards the DPS fund would be based on the "CAMEL rating" of banks and banks with higher ratings would pay lower rates to the fund, Mr Albert HO expressed concern that lower rated banks would be forced to undertake businesses with higher risks in order to recover the higher cost involved.

15. In response, ED(BD)/HKMA remarked that there was support from the public consultation to adopt a differential system for assessment of contributions. As banks would try to improve their risk-management and asset quality with a view to obtaining a higher CAMEL rating in order to lower payments to the fund, the proposed contribution mechanism would help reduce the potential moral hazard risks associated with the DPS.

16. As regards Mr Henry WU's enquiry about the breakdown of the number of banks by their ratings under the CAMEL rating system, ED(BD)/HKMA advised that majority of the banks had achieved a second rating. On whether banks could appeal to the Deposit Protection Appeals Tribunal if they were not satisfied with their CAMEL ratings, ED(BD)/HKMA explained that CAMEL ratings were determined by the Monetary Authority (MA) and the Tribunal would not be empowered to review MA’s decisions on the ratings.

17. Noting that the target size of the DPS fund was set at $1.6 billion to be achieved in about five years, Ms Emily LAU asked about the implications on banks' contribution rate if such target was not attained. ED(BD)/HKMA replied that the contribution rate (on average) would remain at 0.08% if the target fund size was not achieved. The rate would be reduced to 0.01% after the target was reached.

The problem of moral hazard

18. Noting that only 16% of the total deposits in Hong Kong vis-á-vis 84% of the depositors would have their total deposits fully protected under the DPS with the proposed coverage limit of $100,000 per depositor per bank, Mr CHAN Kam-lam expressed concern over the problem of moral hazard associated with the scheme. Given that medium and large depositors, which

comprised the bulk of the total deposits in Hong Kong, would not be protected, and banks would increase charges from customers to recover the cost for the scheme, Mr CHAN was concerned that the interest of medium and large depositors would be adversely affected as they would be subsidizing the small depositors in the scheme. In this connection, Mr LEE Cheuk-yan expressed concern that banks would pass on the cost of the DPS to small depositors and ask whether there would be measures to protect their interests.

19. In reply, ED(BD)/HKMA said that it had been argued that as large depositors would have more resources to protect their interests and would exercise prudence in choosing their bankers, the DPS in Hong Kong was mainly designed for protecting the small depositors. However, it should be noted that even medium and large depositors would be protected under the DPS because the first $100,000 of their deposits would be fully protected by the scheme.

20. On the concern about cost to be borne by customers, ED(BD)/HKMA stressed that how banks charged their clients would be a commercial decision which was inappropriate for HKMA to interfere. However, it had been revealed in HKMA's study and overseas experience that smaller banks tended to be more active in competing for small deposits. Hence, it was envisaged that depositors would have a wider choice in banking service after implementation of the DPS.

Administration of the Hong Kong Deposit Protection Board

21. On the proposal of appointing the HKMA as the agent of the HKDPB to undertake the day to day administration of the DPS, Ms Emily LAU expressed concern about possible negative impact of undermining the credibility and independence of the scheme, and conflict for the HKMA as the regulator of banks to take up the role. She doubted if the proposal would lower the administrative cost for the scheme since the HKMA would fully recover the cost it incurred from the DPS fund. There was also concern that in the event of a large bank failure, the HKMA might not be able to deploy adequate staff to take up the necessary duties. Ms LAU further enquired about overseas experience in administering the DPS.

22. In reply, ED(BD)/HKMA advised that depending on the scope of the DPSs, institutions responsible for administering the schemes in overseas jurisdictions had different structure. For instance, the DPS in the United States did not only operate as a pay box hence the institution had a bigger establishment. In devising the present proposal, the HKMA had made reference to the experience in the United Kingdom whose DPS was also a paybox where the Bank of England was appointed as the agent for administering the scheme. ED(BD)/HKMA said that for a pay box scheme, it would probably not be cost-effective for the HKDPB to maintain a staff level that was required to handle the workload in the event of a bank failure but otherwise not needed in normal time. He advised that the proposal was supported by the Hong Kong Association of Banks and the Consumer Council. On the subject of role conflict, ED(BD)/HKMA explained that in line with

overseas practice, this could be addressed by functional separation between bank regulation and administration of the DPS in the HKMA. As regards the concern about staff deployment in the event of a large bank failure, ED(BD)/HKMA remarked that the HKMA could consider outsourcing some of the work and engaging external professionals as necessary in such circumstances.

23. Upon request of Ms Emily LAU, the HKMA agreed to provide the Consumer Council's views on the proposal for members' reference.

> *(Post-meeting note:* The Consumer Council's letter issued to the HKMA in October 2002 was circulated to members vide LC Paper CB(1) 655/02-03 on 8 January 2003.*)*

Interim Payments to Depositors

24. Responding to Mr Jasper TSANG's enquiry about the proposal of making interim payments to depositors, ED(BD)/HKMA explained that the proposal was to provide payment of up to 25% of the depositor’s entitlement (but without adjustments for interest accrual) within 10 days after the collapse of a bank. Such proposal would help restore depositor's confidence in the banking system and avoid undue delay of payment to the depositors where the time required to ascertain the amount of compensations would be long. He added that there would be legal provision to recover payment from a depositor if the amount of interim payment had exceeded the entitled amount of compensation.

V Enhancement of the regulation of insurers

(LC Paper No. CB(1) 588/02-03(04))

25. At the Chairman's invitation, the Commissioner of Insurance (C of I) briefed the Panel on measures to enhance the regulatory regime for authorized insurers in Hong Kong and the consultancy study being conducted by the Insurance Authority (IA) on the feasibility of establishing an insurance policyholders protection fund (“PPF”).

Feasibility Study on Insurance Policyholders Protection Fund

26. Mr Albert HO noted that currently there were only two insolvency funds for the statutory motor and employees compensation (EC) insurance. He enquired if the Administration had studied the need for establishing additional insolvency funds for other types of insurance business to provide compensation for policyholders in the event of insolvency of the insurers.

27. C of I remarked that the IA commenced a consultancy study in December 2002 to examine the need for establishing the PPF for the insurance sector, including whether there should be separate PPF for long term insurance business

(e.g. life insurance) and general insurance business (e.g. motor and EC insurance). The first stage of the study was expected to complete in mid-2003, to be followed by a public consultation exercise. The Administration would take into account the findings of the consultation exercise before deciding whether to proceed with the second stage.

Enhancement of the Regulation of Authorized Insurers in Hong Kong

28. In response to Mr Albert HO's enquiry on the proposal of setting an admissibility limit for reinsurance recoverable due from an insurer's related companies, C of I advised that the admissibility limit was to limit the amount of reinsurance coverage to be taken up by an insurer's parent company or related companies, hence minimizing the negative impact on the insurer arising from the insolvency of these companies. C of I further explained that the reinsurance recoverable would be limited to 10% of the direct insurer’s net assets. The IA issued the draft Guidance Note on Reinsurance with Related Companies in July 2002 to consult the industry and intended to issue the Guidance Note in early 2003.

29. On other measures to enhance the regulation of authorized insurers, Mr Albert HO asked if an independent redress system could be set up to handle complaints against insurers, as well as agents and brokers. The C of I advised that the Insurance Agents Registration Board, the IA and the two brokers bodies in the insurance sector had established channels for dealing with complaints about malpractices in business of insurers and the conduct of individual agents and brokers.

VI Briefing by the Administration on the organizational review for logistic support departments under the Financial Services and the Treasury Bureau
(LC Paper No. CB(1) 588/02-03(05))

30. Upon the Chairman's invitation, the Secretary for Financial Services and the Treasury (SFST) briefed members on the Administration's proposal to merge the Government Land Transport Agency (GLTA), Government Supplies Department and Printing Department into the new Government Logistics Department (GLD) to be established on 1 July 2003. SFST said that the merger would enhance the cost-effectiveness of the three Departments and improve the efficiency of their operation. Organizationally, the professional functions of the three Departments would be preserved under three specialist operational divisions in the new GLD while the departmental administrative, financial control and procurement functions of the three Departments would be combined and re-organized under three new common services divisions.

Discussion with Members

Feasibility of further outsourcing Government services

31. Mr Kenneth TING, Ms Emily LAU, Mr CHAN Kam-lam, and Mr SIN Chung-kai welcomed the Administration's initiative to streamline the operation of the three Departments to achieve better efficiency and economy in the provision of logistic support for Government bureaux and departments.

32. Mr SIN Chung-kai expressed concern on the implications of the proposal on existing staff of the three Departments, in particular the Motor Driver Grade.

33. SFST remarked that the merger would result in a net deletion of 60 posts from the combined establishment of 879 posts in the three Departments to 819 posts in the new GLD. He stressed that the vast majority of staff would not be affected by the re-organization. The deletion of posts would be dovetailed with natural wastage, retirement and re-deployment. As regards the effect of the merger on the Motor Driver Grade, the Government Land Transport Administrator (GLTA) said that the Grade would not be affected as the majority of the drivers were posted throughout various Government departments. The 85 drivers posted within the GLTA would not be affected to any great extent during the re-organization exercise.

34. Mr Kenneth TING and Mr CHAN Kam-lam asked whether there were plans to outsource the service of Motor Drivers and Driving Instructors in the GLTA in order to minimize costs.

35. In reply, GLTA said the establishment of Motor Drivers in the GLTA had been greatly reduced from over 200 posts to the current level of 85 posts over the past few years. The Administration was examining the feasibility of further reducing the number to about 60 posts in the next three years. On the question of contracting out the driving training service, GLTA advised that there were plans to outsource basic driver training service. However, the provision of more advanced training, such as remedial and defensive driving training, and training for specialized vehicles, such as refuse collection and street cleansing vehicles, would remain to be undertaken by staff in-house.

36. Ms Emily LAU remarked that existing staff would be concerned about the re-organization proposal. She further enquired whether there were plans to further outsource the services provided by the new Department.

37. In response, SFST reiterated that it was an on-going exercise of the Administration to explore ways of streamlining the structure and operation of the various departments in order to achieve greater cost effectiveness and efficiency. However, SFST replied that there would be limits in outsourcing the services provided by the new GLD. For instance, the driver service for specialized vehicles

could not be outsourced and it would be inappropriate to contract out the printing work of confidential government documents. Moreover, it was necessary to maintain a central procurement unit for purchasing goods and services required by the various user departments.

38. On the target size of the new GLD, SFST advised that the net reduction of 60 posts resulted from the merger would represent a 6.8% reduction in the combined establishment to 819 posts in the three Departments. There would be an annual savings of about $26.47 million in staff costs, which was equivalent to 7.45% of the total staff costs of the three Departments.

39. Mr LEE Cheuk-yan expressed strong reservation on outsourcing of Government services which would adversely affect the employment of civil servants and contract staff. In particular, he was concerned that the proposal would result in redundancy of contract staff.

40. In response, SFST stressed that the deletion of posts arising from the merger would be achieved through natural wastage, re-deployment and retirement. The Administration was also consulting staff in the three Departments in finalizing the detailed implementation arrangements.
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VII Any other business

41. There being no other business, the meeting ended at 12:31 pm.

Council Business Division 1
Legislative Council Secretariat
17 February 2003