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 2004-05 (Appendix V-2).

Handling of bankruptcy cases

3.2 Mr NG Leung-sing noted that the number of bankruptcy cases put on the "small case programme" and that remained on "the programme at year end" had increased substantially from 9 601 and 6 488 respectively in 2002 to 22 977 and 22 633 respectively in 2003, and that the figures were forecasted to rise to 23 200 and 43 000 respectively in 2004. In the light of the improvement in Hong Kong's economy and the decreasing number of bankruptcy petitions in recent months, Mr NG enquired about the reasons for the increase in bankruptcy cases in 2003 and the bases for arriving at the estimate in 2004.

3.3 In reply, the Official Receiver (OR) explained that approximately 95% of bankruptcy petitions filed in the past few years were self-petition cases, the majority of which were consumer debts related cases involving consumer loans and credit card payments. Most of these cases were small bankruptcy cases where there was little or no prospect of distribution of dividends to creditors. In order to enhance efficiency in processing these cases, the Official Receiver's Office (ORO) had put them on the "small case programme" which was a special fast-track programme. As regards the rise in the number of bankruptcy cases, OR pointed out that the number of bankruptcy orders had increased significantly from about 890 in 1998 to over 25 300 in 2002. ORO still anticipated that the number of bankruptcy petitions received in 2004 would be in the region of 18 000 to 20 000. The number of such cases had dropped to around 1 500 per month in the past few months as compared with the monthly average of 2 200 to 2 300 in 2003. Bankruptcy orders had declined to below 25 000 in 2003, but there had been a considerable backlog of cases built up over the previous few years. ORO had to monitor bankruptcy cases during a four-year bankruptcy period. These cases would remain in the books of ORO until the bankruptcy orders were discharged.

Outsourcing bankruptcy cases to the private sector

3.4 Mr SIN Chung-kai noted that it was already the existing practice of ORO to outsource insolvency cases to private sector insolvency practitioners (PIPs). He sought explanation as to why legislative amendments were required to facilitate this arrangement as mentioned in the section "Matters Requiring Special Attention in 2004-05" of Head 148 of the 2004-05 Estimates.

3.5 In response, OR explained that only the corporate insolvencies had been outsourced. However, the Bankruptcy Ordinance (BO) (Cap. 6) (applicable to Personal Insolvencies) provided that summary bankruptcy cases (i.e. cases where the value of the bankrupt's property did not exceed $200,000) were to be handled in-house by ORO. Under BO, OR "shall" automatically be the receiver of the bankrupt's property of summary cases and had to convene a meeting of the creditors for outsourcing these cases to PIPs. In view of the increasing number of summary bankruptcy cases in recent years and in order to enhance the cost-effectiveness of ORO, outsourcing bankruptcy cases to PIPs was considered a desirable option in handling the expanding caseload. Given the huge number of over 25 000 bankruptcy cases received in 2002, majority of which were summary cases, about 80 creditors meetings would need to be convened each working day in a year in order to outsource these cases to PIPs. As such, the Administration had introduced the Bankruptcy (Amendment) Bill 2003 (the Bill) into the Legislative Council (LegCo) in December 2003 to enable ORO to outsource summary bankruptcy cases to PIPs without the need of convening creditors meetings.

3.6 Noting that the Bill was awaiting scrutiny by the Bills Committee, Mr SIN Chung-kai remarked that the Bill might not be enacted within the 2003-04 legislative session. The Permanent Secretary for Financial Services and the Treasury (Financial Services) (PSFS) pointed out that the Bill was a simple one containing essentially technical and straightforward amendments. He stressed that it remained the target of the Administration to have the Bill passed within the current legislative session and appealed for Members' support in getting the Bill through LegCo as soon as practicable.

Enhancing the regulation of listing

3.7 Noting that one of the major initiatives in the area of financial services was to improve the regulation of listing, Mr James TIEN was of the view that the Administration should ensure that the Securities and Futures Commission (SFC) would have adequate resources to enhance regulation of the securities market. He asked whether provision had been made in the 2004-05 Estimates for SFC to strengthen its regulatory functions.

3.8 On the funding mechanism of SFC, SFST advised that SFC as an independent regulator of the securities market was financed by market levies and fees and charges on services provided to market operators and participants. With continuous improvement in market performance and expected sustained growth in 2004, it was envisaged that SFC's income would increase. SFC would be sufficiently funded to sustain its operation without the need for the Government to inject funds. On the other hand, the Securities and Futures Ordinance (SFO) (Cap. 571) provided that SFC's budget was to be approved by the Chief Executive, who had delegated the authority to the Financial Secretary (FS). In this connection, the Deputy Secretary for Financial Services and the Treasury (Financial Services)1 (DS(FS)1) supplemented that SFC's budget for 2004-05 had been presented to the Panel on Financial Affairs (FA Panel) at its meeting held on 1 March 2004. The budget would be submitted to FS for approval in due course before tabling at LegCo.

Implementation of SFO

3.9 Responding to Mr Henry WU's enquiry about provision in 2004-05 for overseeing the implementation of SFO, DS(FS)1 advised that SFC as the regulator of the securities market was responsible for the majority of work in relation to implementing SFO. It was one of the on-going tasks of the Financial Services and the Treasury Bureau (FSTB) to oversee the operation of the securities market. Expenditure in this regard would be absorbed in Head 148. As regards implementation of SFO, DS(FS)1 said that the Administration was satisfied with the overall situation since commencement of the Ordinance on 1 April 2003. She advised that the Administration, SFC and the Hong Kong Monetary Authority (HKMA) had been holding regular meetings to discuss matters of mutual concern and to review regulatory requirements in consultation with the market. Areas for improvement had been identified and legislative amendments would be worked out and submitted to LegCo in the next legislative session.

Overseeing the operation of SFC and HKMA

3.10 Mr Henry WU pointed out that in examining SFC's budget for 2004-05, the Administration had expressed reservation over the proposed increase in staff establishment of SFC. He enquired to what extent the Administration had committed resources to oversee the operation of SFC and HKMA to ensure the cost-effectiveness of these organizations.

3.11 In response, PSFS said that it was the responsibility of the Commission to supervise the work of SFC executive. As SFC's annual reports were made public, public scrutiny had become an important part of the supervision process. FSTB also kept in close contact with SFC on matters which required new resources and legislative amendments. On the allocation of resources for overseeing the work of SFC and HKMA, PSFS said that due to financial stringency in recent years, FSTB had also been running under a tight budget. The new directorate post at D2 level as approved by the Finance Committee in February 2004 would help cope with the increasing workload on policy supervision and relevant legislative work.

Operational expenses for FSTB (Financial Services Branch)

3.12 Miss CHOY So-yuk noted from the 2004-05 Estimates that provision in 2004-05 earmarked for honoraria for members of committees, hire of services and professional fees, etc. under Departmental Expenses of Subhead 000 - Operational Expenses of Head 148 was higher than the revised estimates for 2003-04, and enquired about the reasons for the increase.

3.13 In response, PSFS advised that FSTB was responsible for meeting the expenses incurred in providing professional services and advice for the various tribunals and appeal boards which the Bureau had oversight responsibility. He further explained that the increase in provision for honoraria for members of committees was mainly due to the estimated increase of one case for the Mandatory Provident Fund Schemes Appeal Board (MPFSAP), while the increases in hire of services and professional fees and general departmental expenses were mainly the result of expected increase in cases to be heard by the Insider Dealings Tribunal (IDT)/Market Misconduct Tribunal and the Securities and Futures Appeals Tribunal. PSFS said that while the Administration could not foresee whether there would be further cases coming forward to MPFSAP in 2004-05, it was aware that seven other cases had queued up for IDT. PSFS added that IDT was currently handling two very complex cases which were expected to come to an end soon. Since the need for expert services and professional advice in relation to the handling of tribunal cases varied with the complexity of individual cases, it had been difficult to provide accurate estimates in provision in past years. Upon request of Mr Henry WU, PSFS undertook to provide a breakdown of the figures after the meeting.

Promotion of the bond market

3.14 Mr Albert CHAN expressed support for the initiative to promote Hong Kong's bond market and enquired about provision for implementing related measures in 2004-05.

3.15 SFST affirmed FSTB's commitment to promoting the development of the bond market with a view to reinforcing Hong Kong's position as an international financial centre. He advised that the Government's role was to facilitate the development of the bond market by providing a conducive environment through measures such as simplifying the procedures for the issuance of bonds and offering tax concessions. Besides, the Government also encouraged private issuers and public issuers such as Hong Kong Airport Authority, MTR Corporation Limited and Hong Kong Mortgage Corporation to issue bonds. On the other hand, FSTB would implement in 2004-05 the issuance of Government bonds and the securitization of revenue from Government owned toll tunnels and bridges. Expenses in relation to the promotion of the bond market and the two projects were charged to Heads 148 and 147 respectively.

3.16 Mr Albert CHAN was concerned that the new Government bonds and securitized bonds would only be open to institutional investors. In order to enable the general public to benefit from the two projects, Mr CHAN urged the Administration to explore more bonds distribution channels to cover retail and small investors. SFST took note of the view and assured members that a certain portion of the bonds would be designated for subscription by retail investors.

Enhancing corporate governance of companies

3.17 Pointing out that enhancing corporate governance of companies was important for Hong Kong to maintain its position as an international financial centre, Miss CHOY So-yuk considered that the Administration should take the lead in upgrading corporate governance standards of companies in Hong Kong and in enhancing corporates' social responsibility. She enquired about the resources allocated for implementing measures in this area, in particular, in promoting the obligations of companies and in undertaking related research.

3.18 In response, SFST reiterated the Administration's commitment to upgrading the corporate governance standards of companies in Hong Kong with a view to enhancing the quality of the market and reinforcing Hong Kong' position as an international financial centre. SFST advised that concrete measures and

new initiatives were put forward in the Corporate Governance Action Plan (the Action Plan) announced in January 2003 and in SFO for enhancing corporate governance standards of companies, including enhancing listing and disclosure requirements of companies. SFST emphasized that concerted efforts of the relevant parties, including the Administration, SFC, the Hong Kong Exchanges and Clearing Company Limited (HKEx), the Standing Committee on Company Law Reform, the Hong Kong Institute of Directors, the Hong Kong Society of Accountants and listed companies, were vital in taking forward the various measures and initiatives. The Administration, SFC and HKEx had been meeting regularly to monitor the implementation of the Action Plan and SFO and making progress reports to FA Panel.

3.19 As regards resource allocation to enhance corporate governance of companies, SFST remarked that adequate resources had been allocated for undertaking the various initiatives. He assured members that the Administration would keep in view the situation and would consider providing more resources where necessary.

Introducing a generic legislation for bank mergers

3.20 Mr Albert HO noted that bank mergers in Hong Kong were normally effected through the introduction of a Member's bill. He asked whether the Administration would explore the feasibility of enacting a generic legislation to govern the merger of banks and financial institutions and also conduct research on practices of overseas jurisdictions.

3.21 DS(FS)1 responded that the Administration had already commenced a study on the subject, including researching into the practices of overseas jurisdictions. She added that while bank mergers in some jurisdictions like the United Kingdom were effected through the introduction of a Member's bill on a case-by-case basis, generic legislation was in place in other jurisdictions to deal with bank mergers. The Administration would examine the merits of the two approaches. DS(FS)1 added that since the suggestion would have impact on HKMA's supervisory duties over authorized institutions, the Administration would like to study relevant issues carefully and this would take some time. The Administration would endeavour to complete the study as soon as practicable and report to FA Panel.