

LegCo Panel on Financial Affairs

List of follow-up actions arising from discussions in current and previous sessions
(Position as at 30 March 2006)

Subject	Date(s) of relevant meeting(s)	Follow-up actions	Outcome
1. Reinsurance cover for employee compensation insurance policies	20 December 2001	The Administration was requested to provide written reports, on a quarterly basis, on the up-to-date market situation of reinsurance coverage for terrorist activities on treaty arrangements and the Administration's assessment of the continued need for the \$10 billion facility as approved by Finance Committee on 11 January 2002.	The fourteenth quarterly report provided by the Administration was circulated to members vide LC Paper No. CB(1)2381/04-05(01) on 6 October 2005.
2. Loan Guarantee Scheme for Severe Acute Respiratory Syndrome Impacted Industries	Referred by the Finance Committee at its meeting held on 25 April 2003	The Administration undertook to report the operation of the Scheme to the Panel one year after its implementation, and to submit progress report at six month intervals thereafter.	The fourth report on the operation of the Scheme was circulated to members vide LC Paper No. CB(1)164/05-06(01) on 27 October 2005.
3. Proposal of re-structuring the filing fees for non-Hong Kong companies	3 January 2005	The Administration was requested to report to the Panel in due course on the situation about non-Hong Kong companies' compliance with the new requirement for them to file a full annual return. The report should include, inter alia, the statistics on	Information awaited.

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		<p>compliance, non-compliance and late returns, enforcement actions taken/to be taken (if any), and measures proposed by the Administration to improve the situation.</p>	
<p>4. Proposal to write off a judgement debt</p>	<p>6 June 2005</p>	<p>Members considered that the Administration had not provided the Panel with sufficient information for consideration of the proposal to write off the judgement debt owed to the Government by an auctioneer hired by the former Government Supplies Department (GSD) to conduct commercial disposal of unserviceable or obsolete government stores and confiscated goods. It was agreed that the Panel would further discuss the proposal in due course after the Administration had provided the supplementary information requested by members, as follows:</p> <ul style="list-style-type: none"> (a) Actions taken to recover the outstanding payments <ul style="list-style-type: none"> (i) Please confirm whether GSD had, before reaching a Deed of Settlement with the Managing Director (MD) of the auctioneer on 31 March 1999, consulted the Department of Justice (DoJ) on whether the default in proceeds payment 	<p>Administration's response awaited.</p> <p>The Administration proposes to further consult the Panel on the proposal in due course.</p>

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		<p>by the auctioneer involves any criminal offence, and whether criminal proceedings should be instituted against the auctioneer or its MD. In this connection -</p> <ul style="list-style-type: none">● if GSD had consulted DoJ, please provide the advice given by DoJ;● if GSD had not consulted DoJ, please provide the reasons for having not done so. <p>(ii) Please respond to a member's views and question, as follows -</p> <ul style="list-style-type: none">● While the auctioneer had collected the auction proceeds for the Government, the proceeds were assets of the Government and not the auctioneer. Any proceeds owed by the auctioneer to the Government should be regarded as a liability of the auctioneer or its directors including its MD both under common law as well as under the Companies Ordinance, instead of a debt. In this connection, whether the	

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		<p>auctioneer had gone into liquidation is irrelevant because the Government was not its creditor;</p> <ul style="list-style-type: none">● The Government should take appropriate actions (including legal actions) to recover the proceeds, and should not seek approval to write off the sum involved unless all possible means have been exhausted;● If the MD of the auctioneer took away the proceeds, he should be held liable for the offence. The Government should pursue its tracing claim to recover the proceeds from the directors including its MD and consider whether criminal proceedings should be instituted against him; and● In this connection, if GSD had consulted DoJ on its legal rights, please provide the advice given by DoJ. If not, please provide the reasons for having not done so. <p>(iii) With the discharge of the Warrant of</p>	

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		<p>Arrest against the MD of the auctioneer in March 2004, please confirm:</p> <ul style="list-style-type: none">● whether the MD might return to Hong Kong and would be free from any liability (both criminal or civil) for the case; and● whether the Administration would conclude the case after seeking approval to write off the debt and take no further action to recover the proceeds. <p>(iv) In connection with item (iii) above, please confirm -</p> <ul style="list-style-type: none">● what other legal actions the Administration would take to recover the proceeds; and● if the MD was subsequently located in other jurisdictions, whether the Administration would make arrangement to extradite the MD back to Hong Kong.	

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		<p>(b) Internal investigation</p> <p>(i) Please provide the report of the internal investigation conducted by the Administration on the case, including –</p> <ul style="list-style-type: none">● the report(s) of the disciplinary proceedings taken against the civil servants involved in the case, including a Senior Accounting Officer, a Accounting Officer I, a Principal Supplies Officer, two Chief Supplies Officers and one Senior Supplies Officer, and the dates on which the disciplinary proceedings commenced and were concluded; and● the outcome of the investigation on the responsibilities of the senior management of the GSD in the case, in particular the responsibilities of the then Director, Deputy Director and the immediate supervisor of the Senior Accounting Officer concerned. <p>(ii) Please provide the procedures and requirements for the concerned staff to</p>	

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		<p>report to the senior management of GSD on the payment of auction proceeds during the period from 1996 to 1998 when the default happened;</p> <p>(iii) Please provide the date on which the default was brought to the attention of the senior management of GSD, and the reasons why the senior management was unable to identify the problem before then;</p> <p>(iv) Please set out the remedial actions taken by the senior management of GSD for the case since the default was brought to its attention in 1998; and</p> <p>(v) Please confirm whether the Administration considered that there were inadequacies in the senior management in handling the case.</p>	
5. Review of the derivative warrants market	5 January 2006	Members expressed concern about the risks associated with the trading of derivative warrants in Hong Kong, and the need to strengthen regulation of issuers of derivative warrants and to curb improper trading practices in the market. They	The information note provided by SFC was circulated to members vide LC Paper No. CB(1)1091/05-06(01) on 16 March 2006.

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		<p>were also concerned about the impact of the significant growth of the derivative warrants market on the stability of the stock market, the social impact of such trading activities and the protection for the small investors concerned. In this connection, the Administration was requested to liaise with the Securities and Futures Commission (SFC) and the Hong Kong Exchanges and Clearing Limited, and provide written responses to Members' requests and views, as follows:</p> <p>(a) To provide a comparison with other major financial centres, such as the United States (US), the United Kingdom (UK), Italy, Germany and Singapore, in the following aspects:</p> <p>(i) To compare the regulatory regime for derivative warrants in Hong Kong with those for similar products in other major financial centres. The comparison should cover the role and market functions of derivative warrants in respective markets; and</p> <p>(ii) To assess and explain why there was a significant growth of the derivative</p>	

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		<p>warrants market in Hong Kong but not in other major financial centres.</p> <p>(b) To provide information on investors' participation in the derivative warrants market in Hong Kong in recent years, including the following items:</p> <ul style="list-style-type: none">(i) A breakdown of the number and percentage of investors by different categories;(ii) A breakdown of the transaction volume and value traded by different categories of investors (with percentages to the total transaction volume and value), and the investors' gain or loss positions; and(iii) Information about small investors in the derivative warrants market, including the number and percentage of small investors who were aware of the nature and risks involved in derivative warrants and their level of understanding; the number and percentage of small investors who were using derivative warrants as a short-term speculative instrument; and whether any	

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		<p>problems related to the small investors' trading behaviour, such as those related to gambling behaviour, had been identified.</p> <p>(c) To provide information on issuers' participation in the derivative warrants market in Hong Kong in recent years, including the number of issuers involved and their gain or loss from issuing derivative warrants in Hong Kong;</p> <p>(d) With the information mentioned in items (a) to (c) above, to assess the impact of the significant growth of the derivative warrants market in Hong Kong, in particular the impact on the stability of the stock market, small investors and the community as a whole, and assess the need to introduce further measures to strengthen regulation of issuers of derivative warrants and to curb improper trading practices in the market;</p> <p>(e) The SFC's review indicated that given the size of the derivative warrants market and the current dynamics of the stock market, the trading activities in the derivative warrants market, though voluminous, did not currently</p>	

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		<p>pose a threat to the overall stability of the stock market. Given that the average daily turnover in the derivative warrants market had arisen from 5% of the total stock market turnover in 2000 to 19% in 2005, the Administration and SFC were requested to elaborate on the level at which the growth of the derivative warrants market would be considered as posing a threat to the overall stability of the stock market;</p> <p>(f) In order to enhance investor protection, consideration should be given to implement a suitability check on investors in Hong Kong, allowing only those investors who had passed certain thresholds, such as knowledge and investment experience, to invest in derivative warrants. Reference should be made to the suitability check adopted by the Financial Services Authority in the UK;</p> <p>(g) It was not justified to introduce the proposed measures to facilitate further and identical issues of derivative warrants; and</p> <p>(h) It was not sufficient to require a financial analyst, at the time he provided an analysis or</p>	

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		<p>comments on securities in respect of a listed corporation in the mass media, to disclose his financial interest in the listed corporation. Reference should be made to the practice in the US where financial analysts were prohibited from trading the securities which they recommend, and consideration should be given to adopt similar practice in Hong Kong so as to address the concern about financial analysts' potential conflict of interest when giving investment advice.</p>	
<p>6. Progress report on proposed measures to address risks arising from securities margin financing</p>	<p>6 February 2006</p>	<p>Members noted that the proposal of imposing a 180% re-pledging limit on securities margin financing (SMF) providers and the long-term measure of complete segregation of collateral of borrowing and non-borrowing margin clients would have cost implications on SMF providers and their clients. In this connection, members requested SFC to provide the following information:</p> <p>(a) The number of SMF providers that were likely to be affected by the 180% re-pledging limit;</p> <p>(b) The impact of the long-term measure of complete segregation of collateral of</p>	<p>The required information for item (a) and the interim reply for item (b) provided by the Administration was issued to members vide LC Paper No. CB(1)1023/05-06(01) on 3 March 2006. The Administration's further response on item (b) awaited.</p>

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		<p>borrowing and non-borrowing margin clients:</p> <ul style="list-style-type: none"> (i) on the operating cost of SMF providers, including the respective impact on small, medium and large-sized SMF providers; and (ii) on borrowing and non-borrowing margin clients, including the likely increase in service fees paid by them. 	
<p>7. Briefing on the draft Mandatory Provident Fund Scheme (General) (Amendment) Regulation 2006</p>	<p>6 February 2006</p>	<p>In response to a member's enquiry about the progress of the review of contribution and recovery issues relating to the mandatory provident fund (MPF) system, the Mandatory Provident Fund Schemes Authority (MPFA) undertook to provide the following information:</p> <ul style="list-style-type: none"> (a) The progress of the review of contribution and recovery issues for enhancing the protection for employees and MPF scheme members; and (b) MPFA's plan and proposal(s) to address the concern about the lack of protection for employees whose employers had not 	<p>The Administration's response was circulated to members vide LC Paper No. CB(1)1119/05-06(02) on 21 March 2006.</p>

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		registered them with any MPF schemes.	
8. Consultation on the new structure for listing decision-making – Composition changes to the Listing Committee	6 March 2006	<p>The Hong Kong Exchanges and Clearing Limited (HKEx) was requested to convey to the Listing Nominating Committee (LNC) the following major concerns expressed by members of the Panel at the meeting:</p> <p><u>Existing arrangement</u></p> <p>(a) The maximum period of appointment permitted by the current Main Board Rule 2A.25 (three years for members and four years for Chairman or Deputy Chairman of the Listing Committee) had been exceeded in a number of cases, including the Chairman who had served for nine years. It gave the public the impression that the membership of the Listing Committee was restricted to a small group of persons, thus undermining the credibility of the Committee.</p> <p>(b) In connection with item (a) above, there was a lack of transparency in the nomination of members to the Listing Committee as well as factors for consideration and the exceptional circumstances under which LNC might exercise discretion for re-appointment of those</p>	The Administration's response awaited.

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		<p>members who had already served the maximum term. Such re-appointment should be avoided and more “fresh blood” should be brought in to the Listing Committee.</p> <p><u>Rule amendments</u></p> <p>(c) It did not appear to be justified to extend the maximum term for the Chairman, Deputy Chairman and members of the Listing Committee and the Growth Enterprise Market (GEM) Listing Committee to six years.</p> <p>(d) Previous service on the Listing Committee should be counted towards the maximum term. If the proposal in item (c) was to be implemented, those members who had remained in office for six years or more should not be re-appointed when their current term expired in May 2006.</p> <p>In connection with item 1 above, HKEx was requested to provide the Panel with the following information after the next annual re-appointment of Listing Committee members in May 2006:</p> <p>(a) Membership of the Listing Committee;</p>	

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		<p>(b) Number of years served by the Chairman, Deputy Chairman and each member on the Listing Committee; and</p> <p>(c) If any of the members had remained in office for six years or more, the factors considered by LNC in exercising its discretion to re-appoint such members to the Listing Committee.</p>	