

LegCo Panel on Financial Affairs

List of follow-up actions arising from discussions in current and previous sessions
(Position as at 1 June 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 fifteenth quarterly report provided by the Administration was circulated to members vide LC Paper No. CB(1)1270/04-05(01) on 7 April 2006.
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 fifth report on the operation of the Scheme was circulated to members vide LC Paper No. CB(1)1400/05-06(01) on 2 May 2006.
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 compliance, non-compliance and late returns,	Information awaited.

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		enforcement actions taken/to be taken (if any), and measures proposed by the Administration to improve the situation.	
4. Proposal to write off a judgement debt	6 June 2005	<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> <p>(a) Actions taken to recover the outstanding payments</p> <p>(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 by the auctioneer involves any criminal</p>	<p>The 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>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 auctioneer had gone into liquidation is	

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		<p>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 Arrest against the MD of the auctioneer</p>	

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		<p>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. <p>(b) Internal investigation</p>	

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		<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 report to the senior management of GSD</p>	

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		<p>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>	
<p>5. 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</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</p>

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		<p>clients. In this connection, members requested SFC to provide the following information:</p> <ul style="list-style-type: none"> (a) The number of SMF providers that were likely to be affected by the 180% re-pledging limit; (b) The impact of the long-term measure of complete segregation of collateral of borrowing and non-borrowing margin clients: <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>2006. The Administration's further response on item (b) awaited.</p>
<p>6. Consultation on the new structure for listing decision-making – Composition changes to the Listing Committee</p>	<p>6 March 2006</p>	<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>HKEx's response was circulated to members vide LC Paper No. CB(1)1626/05-06(02) on 30 May 2006.</p>

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		<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 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</p>	

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		<p>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 the 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> <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</p>	

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		Committee.	
7. Briefing on the work of the Hong Kong Monetary Authority and its 2005 Annual Report	4 May 2006	<p>Noting the Hong Kong Monetary Authority (HKMA)'s advice that the Exchange Fund (EF) was very unique, a member expressed concern on the feasibility of assessing the performance of EF against any comparable investment funds in Hong Kong and/or other jurisdictions. In this connection, HKMA was requested to provide, as far as practicable, further information as follows:</p> <p>(a) The size, portfolio, return and relevant parameters of the Norwegian Government Pension Fund and any other investment funds which were broadly comparable to EF; and</p> <p>(b) In connection with item (a) above, to explain in what ways and to what extent the investment funds concerned were broadly comparable to EF.</p>	HKMA's response was circulated to members vide LC Paper No. CB(1)1621/05-06(01) on 29 May 2006.
8. Policies on remuneration for and post-termination	4 May 2006	Regarding the reviews being conducted on the policies on post-termination employment of senior	Response awaited.

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employment of senior executives of the Hong Kong Monetary Authority and Securities and Futures Commission		executives of HKMA and the Securities and Futures Commission (SFC), members suggested that reference be made to the improved arrangements introduced for directorate civil servants on 1 January 2006. In this connection, the Governance Subcommittee of the Exchange Fund Advisory Committee and the SFC were invited to inform the Panel of the outcome of their reviews in writing in due course.	
9. Development of capital and disclosure rules to be made under the Banking (Amendment) Ordinance 2005	4 May 2006	To facilitate members' consideration of the need for further deliberation on the draft Capital Rules and Disclosure Rules before the gazettal of the two sets of rules in September/October 2006, HKMA was requested to update the Panel in writing, by 24 June 2006, on the progress of its preparation of the two sets of rules, including the outcome of its consultation with the banking industry.	Response awaited.