

財經事務及庫務局局長

香港雪廠街
中區政府合署



**SECRETARY FOR FINANCIAL
SERVICES AND THE TREASURY**

Central Government Offices,
Ice House Street,
Hong Kong

29 February 2008

Miss Polly Yeung
Clerk to Subcommittee
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Miss Yeung,

**Subcommittee on Proposed Resolution under Section 7(1) of the
Public Finance Ordinance (Cap.2)**

I refer to the list of follow-up actions attached to your letter of 29 February 2008 and would like to set out our comments in the following paragraphs for consideration of the Subcommittee at the meeting to be held on 3 March 2008.

Benchmarks for Determining Funds on Account

As pointed out in paper CB(1)925/07-08(01) submitted to the Subcommittee on 27 February 2008, the existing proportion of the funds on account sought (i.e. 20% and 100% respectively in respect of an Operating Account Recurrent subhead and an Operating Account Non-recurrent subhead or Capital Account subhead) has been adopted since at least 1982 and has in the past appropriately met the funding requirements for maintaining government services during the period between the start of the financial year on 1 April and the enactment of the Appropriation Ordinance in the respective year. We have noted Members' view that in respect of Non-recurrent expenditure subheads, the Administration should only seek funds on account for those essential or urgent items and will take the suggestion into consideration when we determine the funds on account required in future.

Changes to the Draft Estimates of Expenditure

We have consulted legal advice on the legal basis for the Financial Secretary to seek approval of the Finance Committee for expenditure of the funds on account in accordance with the Public Finance Ordinance (Cap.2) (PFO) after the passing of the Resolution by the Legislative Council and before the enactment of the Appropriation Ordinance. According to our legal advice, the Financial Secretary is not required to seek approval of the Finance Committee for expenditure of the funds on account in accordance with the PFO after the passing of the Resolution by the Legislative Council and before the enactment of the Appropriation Ordinance **except** where he proposes to make any change to the expenditure approved under the Resolution.

If it is necessary for a change to be made to the expenditure approved under the Resolution, approval of the Finance Committee is required for the change under section 8 of the PFO. By virtue of section 7(2) of PFO, estimates approved under a resolution are regarded as though they were the approved estimate of expenditure. Hence, section 8 of the PFO is applicable.

Timetable for the Resolution

We note Members' concern about the tight timeframe for the Legislative Council to scrutinise the proposed Resolution. As explained at the Subcommittee meeting this morning, to ensure that funds under the Resolution are voted before the start of the following financial year, we would normally move the motion not later than the last but one Legislative Council meeting before the close of the current financial year. In future, we would take into account Members' suggestion that notice to move the motion should be given after the Estimates of Expenditure for the coming year has been laid before the Council having regard to the need to provide sufficient notification period for moving the motion.


Funding for Non-recurrent Items under Head 106

At this morning's Subcommittee meeting, Members were also concerned about whether Non-recurrent items exceeding \$10 million proposed in the Budget (e.g. the expenditure for subsidising household electricity charges) could be directly charged to Head 106 Miscellaneous Services if provision has already been made under its subhead for additional commitments. As set out in the Controlling Officer's Report for Head 106 in the 2008-09 draft Estimates,

the provision for additional commitments under this head is for meeting unavoidable expenditure in excess of the amounts provided under **other** heads of expenditure. The actual expenditure will not be charged to Head 106 itself. Instead, the Administration will seek the Finance Committee's approval to transfer the required funding from Head 106 to the respective heads and subheads. As a matter of fact, we have in the past **never** charged any expenditure to the additional commitments subheads under Head 106, no matter during the vote-on-account period or after the Appropriation Ordinance has been enacted.

I should be grateful if you could pass the information to Members of the Subcommittee for reference.

Yours sincerely,



(Miss Amy Tse)
for Secretary for Financial Services and the Treasury

c.c. Department of Justice (Attn : Mr Michael Lam)
(Attn : Mr M Y Cheung)