

立法會
Legislative Council

LC Paper No. CB(1)1166/07-08

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by the Administration)

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Panel on Financial Affairs

Minutes of meeting
held on Thursday, 28 February 2008 at 8:30 am
in the Chamber of the Legislative Council Building

Members present : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon Ronny TONG Ka-wah, SC (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon James TO Kun-sun
Hon Bernard CHAN, GBS, JP
Hon SIN Chung-kai, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon WONG Ting-kwong, BBS
Hon CHIM Pui-chung

Members absent : Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon TAM Heung-man

Public officers : Agenda Item IV
attending

Financial Services and the Treasury Bureau

Mr Kenneth CHENG
Principal Assistant Secretary for Financial Services and
the Treasury (Treasury)(Revenue)

Ms Cordelia LAM
Assistant Secretary for Financial Services and the
Treasury (Treasury)(Revenue)2

Transport Department

Mrs Margaret CHAN
Principal Executive Officer / VALID & Licensing

Ms Clara TAM
Senior Executive Officer / Vehicle Registration Marks

Agenda Item V

Financial Services and the Treasury Bureau

Mr CHENG Yan-chee
Deputy Secretary for Financial Services and the Treasury
(Financial Services)

Attendance by invitation : Securities and Futures Commission

Mr Martin WHEATLEY
Chief Executive Officer

Clerk in attendance: Miss Polly YEUNG
Chief Council Secretary (1)5

Staff in attendance: Mr Jimmy MA
Legal Adviser

Ms Pauline NG
Assistant Secretary General 1

Ms Annette LAM
Senior Council Secretary (1)3

Ms Rosalind MA
Senior Council Secretary (1)8

Ms Sharon CHAN
Legislative Assistant (1)8

I. Matters arising from the last meeting

(LC Paper No. CB(1)822/07-08(01) — Letter dated 1 February 2008 from Hon Ronny TONG to the Panel Chairman (attaching the extract of House Rule 24A)

LC Paper No. CB(1)822/07-08(02) — Reply dated 14 February 2008 from the Panel Chairman to Hon Ronny TONG (attaching the motion moved by Hon WONG Ting-kwong on "The 70% mortgage cap on residential property" at the 29 January 2008 meeting and the draft verbatim record of proceedings of the meeting relevant to the handling of the motion))

The Chairman informed members that Mr Ronny TONG had written to him earlier on to seek clarification on his handling of the proposed motion on "The 70% mortgage cap on residential property" at the meeting held on 29 January 2008. He had replied to Mr TONG, providing the draft verbatim record of proceedings of the meeting relating to the handling of the proposed motion and an explanation of the relevant House Rules (HR). The Chairman said that he had dealt with the proposed motion in accordance with HR 24A (a) and (e). Subsequent to the receipt of Mr TONG's query, he had confirmed with the Legal Adviser (LA) on the propriety of his application of the relevant provisions under HR 24A, having regard to what had transpired at the meeting on 29 January 2008 relating to the handling of the proposed motion.

2. Mr Ronny TONG stated that while he did not agree with the content of the motion, he would not object to any member proposing a motion at the Panel meeting within the appointed meeting time in accordance with the relevant Rules of Procedures and/or HR. His query was on a point of order, and not an attempt to overturn the decision of the Panel at the meeting on 29 January 2008. Mr TONG pointed out that he had left the meeting shortly before 12:30 pm on 29 January 2008 for another commitment without knowing that a motion would be proposed. He would have stayed if he was aware that a motion would be proposed.

3. On the background leading to the formulation of HR 24A, Mr Ronny TONG said that as he recalled, HR 24A was drafted after the Committee on Rules of Procedure (CRoP) had considered the concern raised by some Members that proposing motions without prior notice towards the end of committee meetings was unfair to those Members who were unable to stay beyond the appointed ending time as they would be unable to speak and vote on the motion, in particular when the meeting overran. Mr TONG said that when the matter was deliberated at CRoP,

members noted that while some flexibility should be allowed for committee meetings to extend beyond the original appointed ending time, members generally agreed that no motion should be proposed during the extended time of a meeting. As such, Mr TONG was of the view that the intended objective of HR 24A was to make it clear that motions should be proposed and dealt with within the original appointed time of a committee meeting. He also informed the meeting that he had written to the Chairman of CRoP proposing to discuss HR 24A at a future meeting.

4. In this connection, Mr Ronny TONG referred to the motion proposed by Mr WONG Ting-kwong at about 12:42 pm after the appointed ending time of the meeting (i.e. 12:30 pm) held on 29 January 2008, and pointed out that it was inconsistent with HR 24A(f) which provided that "no new motion shall be proposed during the period of extension decided by the committee under (b) or (c)".

5. The Chairman advised that discussion on the intended objective and merits of HR 24A should be left to CRoP while the discussion at this meeting should focus on the application of HR 24A on the handling of the proposed motion at the meeting held on 29 January 2008. He then invited LA to share his observations with members.

6. LA echoed the Chairman's view and stated that he was offering his views on the application of relevant provisions under HR 24A based on what had transpired at the meeting on 29 January 2008. LA also noted Mr Ronny TONG's reference to HR 24A(f) that no new motion should be proposed during the period of extension decided by the committee. Nevertheless, he noted that as recorded in the draft verbatim transcript of the proceedings, at about 12:42 pm, the Panel Chairman had notified members of Mr WONG Ting-kwong's proposed motion submitted in writing, and had indicated his proposal to deal with it later at the meeting when he made announcement on the extension of meeting. No objection was raised by members then. Mr WONG Ting-kwong's motion had been proposed and agreed to be dealt with during the period of extension under HR 24A(a) (i.e. at about 12:42 pm, which was within the 15 minutes beyond the appointed ending time of the meeting at 12:30 pm). LA then advised that under HR 24A(e), where a motion had been proposed and agreed to be dealt with during the original appointed meeting time or the period of extension or continuation of meeting referred to in HR 24A(a) but had not been so dealt with, the motion might be dealt with during the further period of extension beyond that stipulated under HR 24A(a). As such, the motion was dealt with at about 12:49 pm (i.e. during the period of further extension decided by the committee) in accordance with HR 24A(e). In this regard, members noted that at about 12:42 pm, the Chairman had proposed and members had agreed to extend the meeting for a further 10 minutes beyond 12:45 pm. Based on the above, LA advised that the handling of the proposed motion in question appeared to be procedurally in order as it complied with HR 24A(a) and (e).

7. Mr Ronny TONG remained concerned that as far as he could recall, the view shared by members of CRoP in respect of proposing and dealing with new motions beyond the appointed ending time of meetings was not quite the same as that

reflected in the current formulation of HR 24A. He considered that the matter should be further examined by CRoP. Ms Emily LAU shared Mr TONG's view and said that HR 24A, as currently worded, was quite different from what had been agreed by members of CRoP. She considered that the Secretariat should assist by making available the background information on the discussion that had taken place at CRoP on HR 24A to facilitate further consideration by CRoP.

8. Referring to the draft verbatim record, Ms Emily LAU queried whether the Panel Chairman should have announced before the original appointed ending time his intention to extend the meeting for 15 minutes beyond 12:30 pm. In this connection, the Assistant Secretary General 1 advised that according to HR 24A(a), the chairman of a committee might, with or without making an announcement, extend a meeting, or allow a meeting to continue, for not more than 15 minutes beyond the appointed ending time. In other words, there was no requirement that the Panel Chairman had to make an announcement to extend the meeting before the original appointed ending time.

9. Mr WONG Ting-kwong recalled that he had proposed the motion in writing to the Chairman before 12:30 pm on 29 January 2008. However, as discussion was still underway, the Chairman had only proceeded to handle his motion after 12:30 pm. In this regard, the Chairman said that there would not be any material difference as the proposing and handling of the motion had taken place within the period of extension permitted under HR 24A(a).

10. Summing up, the Chairman highlighted that notwithstanding members' concern about the underlying considerations of HR 24A and CRoP's past deliberations, as the Chairman, he could only apply HR 24A on the basis of its current formulation. He agreed that members might pursue the matter at CRoP if they so wished. The Chairman also remarked that opportunity had been taken to clarify the procedural handling of the proposed motion which was in accordance with relevant requirements under HR 24A (a) and (e).

II. Information papers issued since the last meeting

11. Members noted that no information papers had been issued since the last meeting.

III. Date of next meeting and items for discussion

(LC Paper No. CB(1)822/07-08(03) — List of outstanding items for discussion

LC Paper No. CB(1)822/07-08(04) — List of follow-up actions)

Regular meeting in April 2008

12. Members agreed that the following items be scheduled for discussion at the next Panel meeting to be held on Tuesday, 8 April 2008:

- (a) Update on the work of the Financial Reporting Council;
- (b) Increasing employees' control over Mandatory Provident Fund investment; and
- (c) Introduction of search fees for new incorporation forms for local companies.

(Post meeting note: Notice of the meeting scheduled for 8 April 2008 was issued to members vide LC Paper No. CB(1)948/07-08 on 29 February 2008.)

Briefing on the work of the Hong Kong Monetary Authority

13. The Chairman advised that according to the established arrangement, the Hong Kong Monetary Authority (HKMA) would brief the Panel on its work at the meeting to be held in May 2008. However, HKMA had just informed the Secretariat that Mr Joseph YAM, the Chief Executive of HKMA (CE/HKMA) would not be able to attend the meeting in May 2008 as he had to attend international conferences overseas. HKMA had proposed to advance the briefing to end April 2008. In response to the Chairman, members agreed that a special meeting be held on **Monday, 28 April 2008 at 8:30 am** to receive the briefing by CE/HKMA.

The appointment and tenure of office of the Monetary Authority

14. Ms Emily LAU referred to the Panel's list of outstanding items for discussion and enquired when the subject on "The appointment and tenure of office of the Monetary Authority" (Item no. 4) would be scheduled for discussion. She pointed out that the subject had been proposed and placed on the list for some months and should be dealt with as soon as possible, preferably at the special meeting to be held on 28 April 2008. Noting that the item had not been included on the agenda of earlier meetings due to the unavailability of the Financial Secretary (FS), Ms LAU considered that if FS was unable to attend the Panel's meeting, the Administration could make arrangement for other appropriate government officials to attend the meeting instead. Mr James TIEN agreed that the Panel should follow up with the Administration on the meeting arrangement. The Chairman directed the Clerk to liaise further with FS's Office with a view to making arrangements for discussion of the subject at the special meeting on 28 April 2008.

(Post meeting note: Notice of the special meeting scheduled for 28 April 2008 was issued to members vide LC Paper No. CB(1)991/07-08 on 5 March 2008.)

Other issues

15. Mr Albert HO indicated that he had some concerns about the trade practice of insurance agents and would contact the Secretariat with more detailed information if he considered that the matter should be followed up by the Panel.

IV. Review of the Personalized Vehicle Registration Marks Scheme

(LC Paper No. CB(1)590/07-08(01) — Administration's paper on review of the personalized vehicle registration marks scheme

LC Paper No. CB(1)821/07-08 — Background brief on the review of the personalized vehicle registration marks scheme prepared by the Legislative Council Secretariat)

Presentation by the Administration

16. At the invitation of the Chairman, the Principal Assistant Secretary for Financial Services and the Treasury (Treasury) (Revenue) (PAS/(Tsy)(R)) briefed members on the outcome of the review of the Personalized Vehicle Registration Marks (PVRM) Scheme after the first year of implementation. During the period September 2006 to September 2007, nine auctions had been held with 2 058 PVRMs sold. He said that the PVRM Scheme was well received by the public as the number of applications received in each of the four application exercises had exceeded the pre-set limit and was on the increase. Referring to the Administration's Paper (LC Paper No. CB(1)590/07-08(01) which set out details of the review, PAS/(Tsy)(R) highlighted the main findings as follow:

- (a) The Administration generally considered that the operation and implementation arrangements of the PVRM Scheme had been smooth and effective and required no major overhaul. Although the total proceeds of about \$58.2 million for the first year fell short of the original estimate of \$70 million, given the recurrent operating cost of some \$7 million, the Administration was satisfied that the scheme had served the purposes of increasing Government revenue and offering more choices of vehicle registration marks (VRMs) to vehicle owners.
- (b) The Administration had undertaken to set aside \$60 million annually for poverty alleviation for five years from 2006-2007 to 2010-2011. The funding allocation would not be reduced even if the annual

PVRM proceeds were less than the estimated annual revenue of \$70 million.

- (c) According to the Police and the Customs and Excise Department (C&ED), the use of PVRMs had not caused any difficulties to them in performing their enforcement duties on vehicles.
- (d) The implementation of the scheme had not adversely affected the proceeds from the auctions of traditional VRMs. As there was generally no copyright in single words and short phrases, it was unlikely that the use of a PVRM would constitute trademark infringement.
- (e) On measures to improve the scheme, an online enquiry service was introduced in the first quarter of 2008 to allow prospective applicants to check whether their proposed PVRMs were in compliance with the basic combination requirements or had already been allocated or were being processed. To establish a more objective and cogent basis for vetting and consideration of a PVRM application, more researches would be conducted on the possible meanings and implications of the proposed PVRMs. The pool of non-official members of the Vetting Committee had also been increased from 41 to 78 to draw on the views of people from different professions, cultural background and nationalities.

17. On the way forward, PAS(Tsy)(R) stressed that the Administration would continue to monitor the implementation of the scheme and identify room for further improvement.

Discussion

Operating expenditure and auction proceeds of the PVRM Scheme

18. Mr SIN Chung-kai considered that the first year recurrent cost of running the PVRM Scheme at some \$7 million was on the high side. He enquired whether there was room for cost reduction, say by 20% to 30%, through streamlining the operation procedures and adopting alternative arrangements such as on-line auction. In response, the Principal Executive Officer/Validation and Licensing of Transport Department (PEO/VL) said that the PVRM auction arrangements based on the principle of the highest bids were consistent with the existing auction arrangements for traditional VRMs. The selection, checking and vetting procedures for PVRM applications were more complicated and had to be conducted in accordance with the provisions stipulated under the law. In determining whether the proposed PVRMs were suitable for allocation, selected application had to be checked against the basic combination requirements and also against the vetting criteria set out in the legislation. As such, the present staffing level was considered necessary and appropriate for processing the applications and maintaining the efficient operation of

the PVRM Scheme. The recurrent operating expenditure of some \$7 million, representing an average cost of \$2,000 to \$3,000 for each PVRM, was also reasonable. Regarding the suggestion of on-line auction, PEO/VL said that such an arrangement could only possibly achieve savings on the rental of auction premises and related expenses.

19. Noting that the PVRM auction proceeds of about \$58.2 million in the first year of operation fell short of the original estimate of \$70 million, Mr WONG Ting-kwong enquired about the basis of estimation and sought explanation on the reasons for the shortfall. In response, PAS(Tsy)(R) explained that in the absence of any precedent case for reference, PVRM proceeds for the first year had been estimated on the basis of the average price per traditional VRM and the proceeds from the auctions of traditional VRMs. PAS(Tsy)(R) and PEO/VL informed members that about 40% of PVRMs were sold at the deposit price of \$5,000. In addition to the prevailing economic condition, the auctioned price of each proposed PVRM would also depend on the attractiveness of the proposed combination and the preference of individual vehicle owners. PAS(Tsy)(R) stressed that with the experience gained from the first year of implementation, the Administration would be in a better position to work out a more realistic and accurate revenue estimation in future. In this regard, the auction proceeds for 2008-2009 was estimated to be in the region of \$50 million.

Review of the PVRM Scheme

20. Ms Emily LAU was concerned that the revenue from PVRM auction proceeds might continue to drop as innovative combinations were being exhausted. She urged the Administration to closely monitor the PVRM Scheme and critically examine whether the scheme was worth continuing. In response, PAS(Tsy)(R) reiterated that the increasing number of applications received reflected the popularity of the PVRM Scheme among the public. Moreover, the PVRM Scheme had served the dual purpose of offering more choices on VRMs to vehicle owners, and raising Government revenue. At members' request, he undertook to provide a report to the Panel in one year's time, reviewing the implementation of the PVRM Scheme.

Admin

Concern about law enforcement

21. On whether the use of PVRMs would give rise to enforcement problems and jeopardize the safety of road users, Mr Albert HO expressed concern about the possible difficulty for frontline law enforcement officers and the general public to read and remember PVRMs in the event of traffic accidents, in particular hit-and-run accidents. Referring to the some 700 traffic offence cases between September 2006 and September 2007 involving vehicles bearing PVRMs, he asked for detailed breakdown of the number of prosecutions, convictions, as well as acquittals and cases which had been dismissed on the grounds of enforcement difficulty caused by the use of PVRMs. PAS(Tsy)(R) stressed that according to the Police and the C&ED, frontline officers had no difficulties in performing their enforcement duties

on vehicles bearing PVRMs. There was also no evidence that persons involved in the traffic offence cases had experienced inconvenience and confusion arising from the use of PVRMs. He agreed to provide the relevant information/statistics to the Panel after the meeting.

(Post-meeting note: The required information provided by the Administration was issued to members vide LC Paper No. CB(1)1150/07-08 on 28 March 2008.)

Other concerns

22. Noting that only those PVRMs accepted for allocation in accordance with the vetting criteria set out in the legislation would be put up for auction, Mr WONG Ting-kwong was concerned that the stringent vetting criteria might reduce the pool of proposed PVRMs approved for auction. He enquired about the number of applications rejected during the first year implementation of the scheme. In reply, PAS(Tsy)(R) said that up to September 2007, only 66 (2.5%) of the 2 611 vetted applications had been rejected.

23. Noting that fewer than 11 alphabets would be available for allocation under the existing 2-alphabet prefix traditional VRM system, Mr Bernard CHAN called on the Administration to give due consideration to the longer-term arrangements after all the possible combinations were exhausted. PEO/VL noted Mr CHAN's concern for future consideration and said that at the present take-up rate, the possible combinations under the existing 2-alphabet prefix system was estimated to last for another 10 years.

V. Budget of the Securities and Futures Commission for the financial year of 2008-2009

(LC Paper No. CB(1)822/07-08(05) — Administration's paper on Securities and Futures Commission Budget for the Financial Year 2008-09)

Declaration of interests

24. The Chairman declared that he was a Non-executive Director of the Securities and Futures Commission (SFC).

Briefing by the Securities and Futures Commission

25. At the invitation of the Chairman, the Chief Executive Officer of the Securities and Futures Commission (CEO/SFC) briefed members on the revised estimates for 2007-2008 and the proposed budget for 2008-2009, highlighting the following salient points:

Revised estimates for 2007-2008

- (a) The estimated revenue for 2007-2008 was revised upwards to \$2,477.77 million, two-fold that of the approved budget, as a result of a substantial increase in levy income due to robust activities of the securities and futures markets, the increase in fees and charges for derivative warrants, and the increased number of licence applications.
- (b) The forecast operating expenditure of \$596.944 million, i.e. expenditure before funding to external parties, exceeded the approved budget by about \$2.7 million, due mainly to an increase in Premises Expenses.
- (c) The surplus was forecast to reach \$1,872.94 million as compared to \$478.52 million in the approved budget, bringing the overall reserves to about \$3.85 billion at the end of the 2007-2008 financial year.

Proposed budget for 2008-2009

- (a) The total operating expenditure for 2008-2009 was estimated at \$779.68 million, 28.9% higher than the 2007-2008 forecast. The increase in expenditure was mainly attributable to:
 - (i) an increase in Personnel Expenses by \$101.13 million (21.6%) mainly due to the creation of 29 new posts and upgrading of eight posts in various divisions, and provision for pay rise and variable pay for staff;
 - (ii) an increase in Premises Expenses by \$38.06 million (94.2%) in anticipation of higher rental of the existing office and the leasing of a second office from February 2008;
 - (iii) an increase in Professional and Other Expenses by \$5.77 million (20.7%) to meet the increase in legal fees and external professional services in anticipation of a rise in the number of judicial proceedings involving the SFC; and
 - (iv) a provision of \$20 million for implementing new investor education initiatives.
- (b) The estimated revenue at \$2,776.14 million, was 12% above the revised estimates for 2007-2008.
- (c) A surplus of approximately \$2 billion and an overall reserve of \$5.8 billion were projected for 2008-2009.

26. CEO/SFC said that SFC had not requested for appropriation from the Legislative Council (LegCo) since 1993 and would not seek appropriation for the 2008-2009 budget. He stressed that SFC would continue to exercise tight control over expenditure to keep the operating expenses within budget commitment.

Discussion

Levies and licence fees

27. Noting that the SFC had not requested for appropriation from LegCo since 1993, the reserve of \$3.85 billion and the projected surplus of \$2 billion in the 2008-2009 budget, Mr CHIM Pui-chung was of the view that the Government should consider reducing the levies on securities and futures/options trading. He suggested that the levy on securities, which had been reduced last year from 0.005% to 0.004%, should be further lowered to 0.003%. He also described as confusing and unfair the existing licensing regime whereby licence fees were charged on individual licensed persons and registered institutions. Referring to FS's proposal in the 2008-2009 Budget to waive business registration fees for 2008-2009 at a cost of \$1.6 billion to the public coffers, Mr CHIM called on the Administration to consider waiving or reducing licence fees for brokers/intermediaries and financial institutions. He considered that a fee waiver or reduction would help attract new entrants to the financial services market, in line with the Government's policy of encouraging and promoting employment.

28. On the rates of levy, CEO/SFC advised that according to section 396 of the Securities and Futures Ordinance (Cap.571) (SFO), the SFC should consult FS with a view to recommending to the Chief Executive in Council that the rate or amount of levy be reduced if the SFC reserve was more than twice its estimated operating expenses for that financial year. The SFC had accordingly reviewed the rates of levy for 2008-2009, having regard to the SFC's financial position and the prevailing and projected market conditions. After discussing the matter with the Administration, it was agreed that in anticipation of market uncertainties in the years ahead, a levy reduction would not be appropriate at the present stage. Besides, the amount of levy constituted only a very small portion of the cost of trading and a levy reduction would only have a minimal impact on the volume of trading activities. CEO/SFC added that the Administration shared SFC's view. Nevertheless, SFC would, in conjunction with the Administration, review the levy rates from time to time as required under the SFO.

29. As regards licence fees, CEO/SFC said that SFC, in agreement with the Administration, had adopted the principle of full cost recovery and, to the extent possible, to be self-financing in its provision of services. As SFC had not recovered the full cost in the provision of licensing services, it would not be appropriate to reduce or waive the existing licence fees. He noted Mr CHIM's concern about the complexities of the existing fee structure and said that SFC would examine the possibility of simplifying the licensing and fee regime.

30. In this connection, Ms Emily LAU noted that as at end December 2007, SFC's reserve stood at around \$3.5 billion, which was 5.9 times the operating expenditure of the 2007-2008 approved estimates. Given that the reserve had far exceeded the two-fold threshold as specified in SFO, she considered that the rates of levy and licence fees should be reviewed with a view to reducing them.

31. In response, CEO/SFC clarified that there was no absolute requirement that the rates of levy must be adjusted when the reserve reached a level of two times SFC's estimated operating expenses for the financial year in question. When the threshold was triggered, SFC was required to review the levy rates and consult FS, as had been done accordingly on this occasion. He stressed that SFC would explore new initiatives within its mandate to make the best use of its reserve. The Deputy Secretary for Financial Services and the Treasury (Financial Services) (DS(FS)) said that levies on securities and futures trading accounted for about 85% of SFC's income and were subject to fluctuations in market activities. Given the present volatility in the securities market, the Administration concurred with the SFC that the levy rates should not be revised for the time being in view of market uncertainties. Given the projected increase in the estimated operating expenditure for 2008-2009 arising from additional staffing, premises, professional and legal expenses, the Administration supported SFC's prudent approach of maintaining the existing levy rates.

32. In response to Mr Abraham SHEK's enquiry about the use of the reserve, CEO/SFC and DS(FS) outlined the new initiatives introduced by SFC to make good use of the reserve. Additional staffing expenses would be incurred by SFC to cope with the rapid growth of the market and the increase in policy work relating to the regulation of new products. A consultancy study was commissioned to conduct a process review project to streamline the operation and enhance efficiency. A provision of \$20 million had been included in the 2008-2009 budget for implementing new investor education initiatives. DS(FS) and CEO/SFC reiterated that the Administration and SFC, being mindful of members' concern about the reserve, would regularly review the rates of levy and would continue to consider new initiatives to make the best use of the reserve.

33. Mr CHIM Pui-chung remained unconvinced. He maintained that either section 396 of the SFO should be amended, or the SFC and the Administration should consider reducing the levy rates and the licence fees in accordance with SFO given the huge reserve and the projected large surplus for 2008-2009. He remarked that the levies and the fees could be revised upwards in future should the situation so warrant. Sharing Mr CHIM's view, Mr Abraham SHEK opined that the substantial surplus and reserve for 16 consecutive years reflected that there was room for reducing the rates of levy. He suggested that consideration should be given to using the reserve to fund initiatives such as the Government's poverty alleviation work. DS(FS) and CEO/SFC noted members' concern and suggestions.

Additional accommodation needs and Premises Expenses

34. Referring to the projected increase in Premises Expenses by \$38.06 million in the 2008-2009 budget, Ms Emily LAU noted SFC's move to lease additional premises of 16 000 sq ft in a second building of which 4 000 sq ft would be sublet. She sought explanation for such an arrangement and enquired whether it was absolutely necessary for SFC offices to be accommodated in a Grade "A" office building in the central business district.

35. In response, CEO/SFC said that the lease of the existing premises in Chater House (CH) was signed in 2003 on a 5-year plus 5-year renewal basis. While the lease would continue until 2013, the rent would be subject to a review in July 2008. Although the new rent was 160% higher than the current rate of rent, the new rate would be capped at a favourable rate compared to the current market rate for similar properties in the Central District. On additional accommodation needs, CEO/SFC pointed out that as the establishment of SFC had increased from 373 headcounts in 2003 to the proposed establishment of 499 in 2008-2009, additional office space was needed. For this purpose, office space totalling 16 000 sq ft on two floors in the Li Po Chun Chambers (LPC), which was in the vicinity of the Chater House, had been identified as a suitable choice. SFC's plan was to relocate about 100 staff to the LPC office to ease the pressure on the existing CH office. As it might not be practicable to lease office space on one and a half floors and considering that there was no immediate need for all the 16 000 sq ft, subletting some 4 000 sq. ft on a two-year lease was considered a prudent approach. He said that in future, the leases of both the CH office and the LPC office would be due for expiry at about the same time. This would provide SFC a good opportunity to review the accommodation needs at one go.

The increase in staff establishment and Personnel Expenses

36. Noting the significant increase in Personnel Expenses for the 2008-2009 budget which was 21% higher than the 2007-2008 forecast, Mr CHIM Pui-chung sought explanation for the staff increase and was concerned whether the increase in manpower would result in the undertaking of more regulatory actions and impose a heavier compliance burden on the industry.

37. In response, CEO/SFC said that the creation of 29 new posts and the upgrading of eight posts in various divisions were necessary to cope with the increase in workload and responsibilities brought about by a rising number of licensing applications, higher trading volume, growing complexity of market activities and enforcement activities, as well as an increase in policy work concerning new products, regulatory policies and issues related to the China market. He pointed out that SFC had always been mindful of the need to exercise vigilant control on its staff resources, and assured members that the additional manpower resources were necessary for the effective operation of SFC. In this connection, DS(FS) confirmed that in view of the significant growth in the volume and complexity of work over the past few years, the Administration concurred that the increase in staff establishment was necessary for SFC to perform the regulatory role effectively.

38. Mr SIN Chung-kai indicated his support for the increase in manpower, and hoped that resources would be effectively deployed to improve SFC's enforcement capabilities which he considered not very satisfactory. In this connection, Ms Emily LAU called on SFC to effectively deploy the additional manpower to vigorously discharge its regulatory and investigatory functions so as to safeguard the reputation of Hong Kong as an international financial centre (IFC).

39. In response, CEO/SFC reiterated that one of the major objectives of the proposed staff increase was to enhance SFC's enforcement capabilities to cope with the increase in complexity and scope of investigation work and to speed up the investigation process. Referring to the shift in SFC's enforcement focus to concentrate resources on more important and prominent cases over the years that had led to an increase in the number of judicial proceedings and a significant increase in legal costs, CEO/SFC assured members that SFC had all along performed its regulatory and enforcement roles vigorously to uphold Hong Kong's status as an IFC, and would continue to do so in future.

40. Referring to the additional 12 new posts in the Enforcement Division, Mr SIN CHUNG-kai enquired whether there was any objective performance indicators against which the effectiveness of enforcement could be measured. In view of the high volume and increasing complexity of activities related to the China market, he asked how many officers out of the 112 staff of the Enforcement Division were tasked to handle China-related cases.

41. In response, CEO/SFC said that manpower resources were allocated according to the importance and the priority of the cases under investigation. There was no designated staff exclusively responsible for China-related cases. In fact, under the existing organizational set-up, staff in various operation divisions, such as the Intermediaries and Investment Products Division, the Enforcement Division and the Supervision of Markets Division, might be involved in China-related initiatives/matters. He added that SFC had been working closely with regulatory bodies worldwide on regulatory and enforcement cooperation. Under the Multilateral Memorandum of Understanding of the International Organization of Securities Commissions (to which both the SFC and the China Securities Regulatory Commission (CSRC) were signatories), the SFC and CSRC might exchange information and provide mutual investigatory assistance on cross-border cases. Such cooperation had proved to be effective so far.

42. Mr SIN Chung-kai requested the SFC to provide the Panel with the statistics on the number of enforcement cases investigated and completed by SFC, as well as relevant information on performance indicators/pledges regarding its enforcement effectiveness.

43. Ms Emily LAU noted that three new posts had been proposed for the China Affairs Department (CAD) in the CEO's office. She was concerned whether the increase in manpower was sufficient and whether there was necessary expertise to

cope with the significant increase in the volume and the complexity of China market-related issues.

44. In response, CEO/SFC said that while China market-related cases were dealt with by staff from various divisions of SFC, the function of CAD was to coordinate the various Mainland-related activities conducted by different divisions and to work on China market-related policies such as the technical details of the planned "Through Train Scheme" for securities trading and the accounting rules etc. With the three additional new posts, the establishment of CAD would be increased to six to cope with the increasingly complex policy work related to the China market. CEO/SFC remarked that recruiting staff of the right calibre and expertise to take up China-related regulatory affairs was no doubt a challenge for SFC. Nevertheless, he said that as a senior member of staff from CSRC was currently working in SFC on secondment, SFC could avail itself of his knowledge and expertise in Mainland-related regulatory matters. Moreover, internal training would be provided for staff development.

Investor protection

45. Mr Albert HO said that he had received a number of complaints involving the provision of inaccurate or misleading information by financial advisors and intermediaries to their clients with regard to various derivatives and financial products. He was concerned that some brokers and financial consultants with vested interests in the financial products in question might not have fully apprised their clients of all the risks of the products or disclosed their interests. As it would be a complex and time-consuming process for investors to claim compensation through civil proceedings, Mr HO called on the Government to formulate improvement measures to enhance investors' understanding of the risks involved and to strengthen the regulation of practitioners. He also urged the Government to review the relevant guidelines issued to financial practitioners, in particular those relating to risks disclosure.

46. Acknowledging that financial products were becoming more sophisticated and therefore more risk-prone, CEO/SFC said that SFC had issued guidelines requiring practitioners to make full and proper disclosure of all the risks and fees involved in the financial products that they recommended to their clients. Where potential conflicts might arise when promoting some schemes or products to their clients, financial practitioners should fully disclose their interests. He said that the SFC would regularly monitor the conduct of practitioners and where necessary, would issue additional guidelines and rules to practitioners on sales practices and disclosure requirements. Investor education programmes had been launched to educate investors of the need to make full assessment of the risks involved before subscribing for the products, and more initiatives would be implemented to educate the investing public. He said that upon detection of irregularities or malpractice, members of the public were encouraged to lodge their complaints with SFC which would investigate into such complaints and take action where necessary. Mr Albert HO requested that the SFC provide the Panel with statistics and breakdown on the

number of complaints received and investigated by the SFC which involved the provision of inaccurate or misleading information by financial advisors and intermediaries to their clients.

(Post-meeting note: The information provided by SFC as required in paragraphs 42 and 46 above was issued to members vide LC Paper No. CB(1)1148/07-08 on 28 March 2008.)

Other concerns

47. Ms Emily LAU and Mr SIN Chung-kai thanked SFC for submission of its annual budget to the LegCo for information and comments. They remarked that other regulatory bodies such as the Hong Kong Monetary Authority, the Mandatory Provident Fund Schemes Authority and the Financial Reporting Council should likewise present their budgets to LegCo.

48. Mr Albert HO noted that following the CA Pacific Securities liquidation incident, an Investor Compensation Fund was established under SFO in 2003 to provide compensation to investors for pecuniary losses sustained in the event of defaults by licensed intermediaries and authorized financial institutions. As a related issue, Mr HO asked the Administration to take note of his concern of whether the Administration would consider adjusting the maximum limit of compensation at \$150,000 per investor for losses in trading securities and futures contracts respectively.

VI. Any other business

49. There being no other business, the meeting ended at 10:30 am.

Council Business Division 1
Legislative Council Secretariat
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