立法會
Legislative Council

LC Paper No. CB(1)2317/07-08
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Panel on Financial Affairs

Minutes of special meeting
held on Monday, 30 June 2008 at 2:30 pm
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 Dr Hon David LI Kwok-po, GBM, GBS, JP Hon James TO Kun-sun Hon SIN Chung-kai, SBS, JP Hon Emily LAU Wai-hing, JP Hon Jeffrey LAM Kin-fung, SBS, JP Hon WONG Ting-kwong, BBS Hon CHIM Pui-chung Hon TAM Heung-man
Members attending	**:**	Hon CHAN Yuen-han, SBS, JP Hon LI Fung-ying, BBS, JP Hon WONG Kwok-hing, MH
Members absent	**:**	Hon Bernard CHAN, GBS, JP Hon Abraham SHEK Lai-him, SBS, JP Hon Andrew LEUNG Kwan-yuen, SBS, JP

Public officers attending : Agenda Item I

Financial Services and the Treasury Bureau

Ms Jenny CHAN
Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)

Mr Ryan CHIU
Assistant Secretary for Financial Services and the Treasury (Financial Services)

Agenda item II

Mr Parrish NG Ching-man
Acting Deputy Secretary for Financial Services and the Treasury (Treasury) 3

Mr Isaac CHOW Yiu-nam
Deputy Director of Government Logistics

Mr Brian LEU Lap-yau
Government Counsel, Department of Justice

Attendance by invitation : Agenda Item I

Mandatory Provident Fund Schemes Authority

Mr Darren MCSHANE
Executive Director (Regulation & Policy)

Ms Gabriella YEE
Chief Manager (Policy Development & Research)

The Federation of Hong Kong and Kowloon Labour Union

Mr LI Keung-tsang
Labour Rights Official

The Hong Kong Federation of Trade Unions (Rights and Benefits Committee)

Mr SO Pak-chan
Committee Member

Mr CHUNG Kam-man
Secretary

The Hong Kong Chinese Importers' & Exporters' Association

Mr Michael HUI
Hon Secretary

Mr CHENG Kwok-kee
Committee Member

The Hong Kong Retirement Schemes Association

Ms LAU Ka-shi
Chairman

Hong Kong Trustees' Association Ltd

Ms Carolyn BUTLER
Chairman

Democratic Alliance for the Betterment and Progress of Hong Kong

Mr NG King-wah
Financial Affairs Deputy Spokesman

The Democratic Party

Mr CHAN Ka-wai
Vice-spokeperson on Labour Policy

Individual

Mr YEUNG Hing-choi

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

Staff in attendance: Ms Rosalind MA
Senior Council Secretary (1)8

Ms Sharon CHAN
Legislative Assistant (1)8

Action

I. Increasing employees' control over Mandatory Provident Fund investment

Submissions from organizations/individual not attending the meeting

(LC Paper No. CB(1)2014/07-08(05) — The Chinese Manufacturers' Association of Hong Kong

LC Paper No. CB(1)2014/07-08(06) — Federation of Hong Kong Industries

LC Paper No. CB(1)2014/07-08(07) — The Hong Kong Chamber of Small and Medium Business Limited

LC Paper No. CB(1)2014/07-08(08) — The Hong Kong Chinese Enterprises Association

LC Paper No. CB(1)2014/07-08(10) — Mr YEUNG Wai-sing, MH, Eastern District Council member

LC Paper No. CB(1)2061/07-08(01) — Momentum 107)

Members noted the above submissions from organizations/individual not attending the meeting.

Meeting with deputations/individual

2. The Chairman invited representatives of the deputations to present views on the Administration's proposal of increasing employees' control over Mandatory Provident Fund (MPF) investment.

The Federation of Hong Kong & Kowloon Labour Unions
(LC Paper No. CB(1)2014/07-08(01) -- Submission)

3. Mr LI Keung-tsang, Labour Rights Official of the Federation of Hong Kong & Kowloon Labour Unions (FHKKLU), said that FHKKLU supported the proposal of the Mandatory Provident Fund Schemes Authority (MPFA) as it would facilitate market competition and help to drive down fees and charges of MPF funds. In the long run, scheme members should be allowed to transfer the accrued benefits derived from the employer's mandatory contributions to MPF schemes of their own choices. The current arrangement of offsetting of Severance Payment (SP) and Long Service Payment (LSP) under the MPF System, which was considered the greatest impediment to the transfer of employer mandatory contributions by employees, should be abolished.

The Hong Kong Federation of Trade Unions (Rights and Benefits Committee)
(LC Paper No. CB(1)2078/07-08(01) -- Submission)

4. Mr SO Pak-chan, Committee Member of the Hong Kong Federation of Trade Unions (Rights and Benefits Committee), said that while the Federation agreed with MPFA's proposal, it considered that scheme members should be allowed to transfer the accrued benefits derived from both employer and employee mandatory contributions. MPFA should also increase the transparency of fees and charges of MPF funds and abolish the offsetting arrangement for SP/LSP.

The Hong Kong Chinese Importers' & Exporters' Association
(LC Paper No. CB(1)2014/07-08(09) -- Submission)

5. Mr Michael HUI, Hon Secretary of the Hong Kong Chinese Importers' & Exporters' Association, said that the Association supported the MPFA's proposal to increase employees' control over MPF investment. This would enhance competition in the MPF market and help drive down fees and charges of MPF funds. The Association was nevertheless of the view that allowing employees to transfer the accrued benefits derived from both the employer and employee mandatory contributions would substantially increase the administrative burden and costs on employers, as well as bring about difficulties in the regulation of the MPF System.

The Hong Kong Retirement Schemes Association
(LC Paper No. CB(1)2105/07-08(01) – Submission)

6. Ms LAU Ka-shi, Chairman of the Hong Kong Retirement Schemes Association (HKRSA), said that HKRSA supported the current proposal. HKRSA was of the view that before implementation of the proposal, MPFA should launch education campaign to assist employees in making investment decisions, such as distributing publicity and educational materials and organizing workshops in all 18 Districts. During the initial period, the MPFA should consider limiting the number

of transfers to once per annum to avoid over-switching. HKRSA would continue to cooperate with the MPFA and other stakeholders in enhancing retirement protection for employees.

Hong Kong Trustees' Association Ltd
(LC Paper No. CB(1)2014/07-08(02) -- Submission)

7. Ms Carolyn BUTLER, Chairman of the Hong Kong Trustees' Association Ltd (HKTA), expressed the Association's support for the proposal. The Association considered that employees' choice for transfer be limited to once per annum for the initial two years to ensure that the record keeping system would not be overloaded and to discourage employees treating their MPF accounts as bank accounts rather than long-term retirement saving vehicles. The Association also supported MPFA's proposal to allow 12 months' lead time for trustees to make the necessary adjustments to their systems for implementation of the proposed change.

Democratic Alliance for the Betterment and Progress of Hong Kong
(LC Paper No. CB(1)2078/07-08(02) – Submission)

8. Mr NG King-wah, Financial Affairs Deputy Spokesman of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), said that DAB was concerned about the high fees and charges of MPF funds as a result of limited competition in the MPF market and the long-term impact of high fees on the accrued benefits of scheme members upon retirement. While agreeing in principle with the current proposal, DAB called on the Administration/MPFA to review the arrangement in the light of implementation experience with a view to allowing employees full control over their MPF investment in due course. DAB considered that introducing a "portable personal account system" would enable employees to better control their investment. This could in turn increase market competition, improve services and reduce fees and charges of MPF funds.

The Democratic Party
(LC Paper No. CB(1)2014/07-08(03) -- Submission)

9. Mr CHAN Ka-wai, Vice-spokesperson on Labour Policy of the Democratic Party (DP), pointed out that the MPFA's proposal would only bring about slight improvement in employees' control over MPF investment. DP considered that as the accrued benefits derived from mandatory contributions from both the employer and the employee were the employee's assets, the employee should be given full control of his MPF investment. The transparency of fees and charges of MPF funds should be increased to facilitate employees' in their choice of scheme trustees. This would help increase market competition, drive down the fees of MPF funds and protect the accrued benefits of employees in the long run.

Mr YEUNG Hing-choi

(LC Paper No. CB(1)2014/07-08(04) -- Submission)

10. Mr YEUNG Hing-choi highlighted that while the proposal put forward by MPFA was a practicable approach to increase employees' control over their investment in the interim, consideration should be given to further expanding employees' control. Noting that MPFA had proposed to rename "preserved accounts" as "personal accounts" under the proposal, Mr YEUNG considered that the opportunity should also be taken to rename "Capital Preservation Fund" as "Capital Conservation Fund" to better reflect that this fund, though conservative in nature, might still incur loss. He was also of the view that the MPF System should be further improved by abolishing the SP/LSP offsetting arrangement. In allowing employees to transfer their accrued benefits to MPF schemes of their own choices, Mr YEUNG pointed out that employees should be provided with adequate information on the possible consequences of the transfer, such as the possible loss of bonus units offered by their existing scheme trustees under certain specified circumstances.

Meeting with the Administration/MPFA

(LC Paper No. CB(1)2014/07-08(11)	—	Administration/MPFA's response to the submissions on the proposal to increasing employees' control over Mandatory Provident Fund investment
LC Paper No. CB(1)1163/07-08(04)	—	Administration/MPFA's paper on increasing employees' control over Mandatory Provident Fund investment
LC Paper No. CB(1)1381/07-08	—	Minutes of Panel on Financial Affairs meeting on 8 April 2008 (Paragraphs 22 to 44))

Pros and cons of the current proposal and alternative arrangements

11. Mr WONG Kwok-hing noted that a number of deputations considered the current proposal inadequate as it would only allow the employees halfway control, instead of full control, of their accrued MPF benefits. He doubted why the Administration/MPFA would not allow employees to choose the MPF scheme into which both the employer and employee mandatory contributions would be made. In reply, the Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) (PAS(FS)) advised that as explained in the Administration/MPFA's paper provided to the Panel for the meeting on 8 April 2008, alternative arrangements to allow employees to transfer all the accrued benefits derived from both employer and employee mandatory contributions or to choose the trustee for making contributions would place an onerous burden on the trustees and

the employers, such as the need to set up a system to keep records of transfers made by employees. The currently proposed arrangement, however, could be implemented with a shorter lead time and was considered more acceptable to the parties concerned. It was therefore a pragmatic option in the interest of employers, employees and trustees.

12. Ms LI Fung-ying shared the views of some deputations that the offsetting arrangement for SP/LSP under the MPF System should be abolished. She was of the view that the offsetting arrangement would substantially reduce the accrued benefits of employees upon their retirement and was therefore contrary to the objective of the MPF System to provide retirement protection for the workforce. Ms LI asked the Administration to seriously consider abolishing the offsetting arrangement.

13. In response, PAS(FS) advised that the offsetting arrangement actually predated the implementation of the MPF System as it had been permissible for employers to offset SP/LSP from the accrued benefits derived from the employers' contributions to occupational retirement schemes. She recapped that in the course of devising the current framework for the MPF System and related legislation, there had been extensive consultation and discussion among stakeholders. A consensus was finally reached that the offsetting arrangement for SP/LSP should be extended to apply to MPF benefits. Meanwhile, she pointed out that a review of the offsetting arrangement was not within the scope of the current proposal which sought to increase employees' control over their MPF investment.

14. Referring to the background leading to the current MPF System, Mr James TIEN recalled that the offsetting arrangement aimed at addressing employers' concern that the dual payment of contributions to an MPF scheme and the payment of LSP might amount to an obligation on employers to provide double retirement benefit for their employees. He said that Members of the Liberal Party and employers organizations generally supported the MPFA's current proposal. In Mr TIEN's view, the alternatives to allow employees greater control in their MPF investment might have their downside. For example, where an employee chose to invest all the contributions in highly risky investments and sustained losses, employers would have to top up the shortfall in the offsetting of LSP. He therefore opined that any further increase in employees' control over their MPF investment should only be considered at a later stage when a larger amount of accrued benefits would have accumulated in most employees' MPF accounts, so that losses in investment would not erode the amount available for offsetting LSP.

15. Mr Jeffrey LAM said that employers in Hong Kong were generally supportive of the MPF System. He shared Mr TIEN's view about the downside of allowing employees full control over their MPF investment. Mr LAM pointed out that in the event that investment losses had depleted the accrued benefits to such an extent that the payment of SP/LSP could not be fully offset, employers would have to top up the shortfall. He was concerned that employers of small and medium

enterprises (SMEs) might have difficulty in securing extra funds to meet the shortfall. He also highlighted the increased administrative burden on employers, notably SMEs, if very frequent transfers were made by employees to different schemes. Mr WONG Ting-kwong shared the concern about the difficulties of SMEs in coping with the increased financial burden if the existing SP/LSP offsetting arrangement would be abolished as suggested by some deputations.

16. Mr YEUNG Hing-choi held a different view on the possible burden on employers in topping up the shortfall for offsetting of SP/LSP. He referred to an example that if an employee resigned from the job on his own accord, the employer would not be required to pay any SP to the employee. Hence, the employer would not need to invoke the offsetting arrangement at all.

17. Noting the concerns about the SP/LSP offsetting arrangement, Mr SIN Chung-kai asked whether the labour sector would consider a compromised approach, say, by setting aside part of the employer's mandatory contributions for offsetting future payment of SP/LSP and allowing employees to transfer the remaining part.

18. In this regard, Mr LI Keung-tsang of FHKKLU said that the current SP/LSP offsetting arrangement would defeat the purpose of the MPF System, because in the long run, the accrued benefits available to the employees upon their retirement would be substantially reduced after several offsettings. In the view of FHKKLU, if offsetting arrangement was to be included, only the accrued benefits derived from the voluntary contributions made by employers (i.e. contributions in excess of the 5% mandatory contributions) could be used for offsetting the payment of SP/LSP. Mr YEUNG Hing-choi shared a similar view. Mr LI further stated that abolishing the SP/LSP offsetting arrangement under the MPF System could remove the impediment to the transfer of employer mandatory contributions by employees as the employers would no longer need to ascertain the accrued benefits derived from their mandatory contributions for the purpose of SP/LSP offsetting.

19. The Chairman advised that the offsetting arrangement under the MPF system was a controversial subject over which different stakeholders would have divergent views. He asked members to focus the discussion at this meeting to the proposal to increase employees' control over MPF investment. The subject on SP/LSP offsetting arrangement might be dealt with at meetings of the Manpower Panel if members so wished.

20. Mr SIN Chung-kai sought the MPFA's elaboration on the implementation problems if employees were allowed to also transfer the benefits derived from the employer's mandatory contributions. In response, the Executive Director (Regulation & Policy), Mandatory Provident Fund Schemes Authority (ED(R&P)/MPFA) advised that apart from concerns about enforcement difficulties in detecting default contribution cases and the administrative burden on employers, there would also be practical difficulties administering the offsetting of SP/LSP.

Under the SP/LSP offsetting arrangement, an employer needed to ascertain the amount of the benefits derived from employer mandatory contributions from the scheme trustee which was managing such contributions. If employees were given full control over the investment of both the employer and employee mandatory contributions, the employer might experience practical difficulty or delays in tracing the MPF scheme trustees for ascertaining the accrued benefits derived from the employer's mandatory contributions.

21. Miss CHAN Yuen-han opined that the SP/LSP offsetting arrangement under the MPF System was the major impediment to the portability of employer mandatory contribution as employers were concerned about the need to top up the amount for payment of SP/LSP should the MPF investment chosen by employees sustain losses. Miss CHAN was of the view that the accrued benefits derived from both employer and employee mandatory contributions should form part and parcel of the employees' retirement benefits. She saw no reason why employees should not be given full control over the investment of the assets in their MPF accounts. Mr WONG Kwok-hing echoed Miss CHAN's view and requested to put on record their request for employees' full control of their MPF investment. Mr WONG also stated that Members of the Hong Kong Federation of Trade Unions objected to the SP/LSP offsetting arrangement under the MPF System. In this connection, Miss CHAN and Mr WONG informed members that they allowed staff of their Members' offices full control over the accrued benefits derived from both employer and employee mandatory contributions and that the arrangement had proved to be a successful experience. They called on the Administration to deal with the portability proposal in a fair and proactive manner, instead of allowing employees only halfway control of their MPF investment as currently proposed.

22. PAS(FS) reiterated that the MPFA had formulated the current proposal after examining alternative arrangements for increasing employees' control over their MPF investment. Consideration had been given to the pros and cons of different options including the possible administrative and cost implications on the parties concerned, which might affect the time required to implement the proposal. Where a certain option would require substantial procedural changes or legislative amendments, early implementation would not be possible. PAS(FS) nevertheless took note of the views and concerns of some Members and deputations on further increasing the control of employees over their MPF investment. ED(R&P)/MPFA added that having regard to the two-fold objectives of the proposal, i.e. increasing employees' control over their MPF investment and driving down the fees and charges of MPF funds, the current proposal represented the best compromise in the interest of employees, employers and trustees and could be implemented early under the existing infrastructure.

Admin

23. Mr WONG Ting-kwong was concerned about measures to facilitate employees in making wise choices in their MPF investment when greater control was given to them under the current proposal. In response, PAS(FS) assured

members that MPFA would enhance its publicity and education efforts to help scheme members understand the risks and features of different types of MPF funds so that they could make informed decisions which could best meet their investment needs.

Fees and charges of MPF funds and management of accounts

24. Mr WONG Kwok-hing was concerned that upon retirement, the accrued benefits of employees holding a number of preserved accounts would be eroded by the exorbitant fees charged by different scheme trustees. He enquired about measures to safeguard employees' accrued benefits against the impact of high fees and charges.

25. Mr WONG Ting-kwong expressed concern about the consolidation of preserved accounts held by employees, and enquired whether employees were allowed to consolidate the benefits derived from both employer and employee mandatory contributions in different preserved accounts into one personal account to facilitate management.

26. In reply, ED(R&P)/MPFA advised that under the existing MPF System, scheme members could consolidate their preserved accounts holding benefits derived from previous employments into one preserved account. PAS(FS) and ED(R&P)/MPFA pointed out that the proposed renaming of "preserved accounts" as "personal accounts" would instill a greater sense of ownership of MPF accounts by the employees. This would be consistent with the educational efforts of MPFA to encourage scheme members to manage their MPF accounts, including consolidating preserved accounts for better management.

27. Noting the concern of representatives of HKRSA and HKTA about the possible adverse impact of frequent transfers of accrued benefits to different MPF schemes, Ms LI Fung-ying asked how an employee should exercise his right of transfer at least once a year under the MPFA's proposal. In response, PAS(FS) advised that the proposal would give employees the right to decide, at least once a year, on whether they would like to transfer the benefits derived from their mandatory contributions to an MPF scheme of their own choice. Employees would be at liberty to decide to keep the benefits with the MPF scheme chosen by their employers. To facilitate employees in making informed decisions on transfers, MPFA would step up public education to remind employees of the need to understand the features and merits of different MPF schemes before making their choice.

28. Ms LAU Ka-shi of HKRSA clarified that the Association's suggestion was to limit the employee's frequency of transfer to once a year during the initial period of implementation of the proposal. This would allow time for them to gain more knowledge and experience in MPF investment.

29. Mr Jeffrey LAM and Mr James TIEN expressed concern about the prevailing high fees and charges of MPF funds. Mr TIEN opined that as individual employees might not possess the expertise and the bargaining power in negotiating with scheme trustees the terms and fees of MPF funds, allowing employees full control of their MPF investment might not necessarily increase investment returns or drive down fees of MPF funds. In this connection, Mr TIEN remarked that as he could recall, before the implementation of the MPF System, the fees and charges for Occupational Retirement Schemes (ORSO schemes) were relatively lower than those currently charged by MPF schemes. This might be because employers were inclined to choose lower-risk investment under MPF schemes so as to avoid losses and minimize the need to top up the shortfall for offsetting of SP/LSP. He also commented that the operation of ORSO schemes, participation of which was voluntary, had been subject to less controversy.

30. Mr YEUNG Hing-choi remarked that direct comparison of the operation and charges of ORSO schemes and MPF schemes might not be appropriate as employers participated in ORSO schemes on a voluntary basis for the retirement protection of their employees. Hence, it would be understandable for them to have the right to choose the scheme trustee. Moreover, unlike MPF schemes the fees and charges of which were borne by employees, the relevant fees under the ORSO schemes were usually borne by employers. It was therefore in the employers' interest to identify ORSO scheme trustees charging reasonable fees for providing ORSO schemes for their employees.

31. Mr WONG Kwok-hing enquired about measures to monitor the levels of fees and charges of MPF funds, such as disseminating information on fees and charges of different scheme trustees through open platforms. In reply, PAS(FS) advised that in the past year or so, a number of MPF scheme trustees had taken the initiative to reduce their fees and charges in response to the calls of the community. MPFA had also devoted efforts in increasing the transparency of fees and charges of MPF funds, through measures such as the launching of a web-based MPF Fee Comparative Platform for disclosure of information on MPF funds.

Concluding remarks

32. Summing up, the Chairman said that the current proposal was a step forward for increasing employees' control over MPF investment, despite that the call for full control was not met. The Chairman recalled that during the scrutiny of the bill to provide a statutory framework for the MPF System, he had expressed the view that employees should have a say in choosing the scheme trustees in respect of the mandatory contributions. He urged the Administration to take heed of the views and concerns expressed by Members and deputations and make further improvement to the MPF System by allowing employees greater control over their MPF investment in due course.

II. Report on write-off of a judgement debt

(LC Paper No. CB(1)1771/07-08(05)	—	Administration's paper on report on write-off of a judgement debt
LC Paper No. CB(1)2015/07-08	—	Background brief on the Administration's proposal to write off a judgement debt prepared by the Legislative Council Secretariat)

33. At the invitation of the Chairman, the Deputy Director of Government Logistics (DD/GL) briefed members on the report on write-off of a judgement debt amounting to $17,025,082.44 (inclusive of costs of action and interest calculated up to 5 September 2007). The Administration had consulted the Panel on 6 June 2005 on the proposal to write off a debt owed by the Hong Kong Auctioneers & Estate Agency Ltd (the auctioneer). He highlighted the follow-up actions taken by the Administration in response to Panel members' request, as follows:

(a) The Government Logistics Department (GLD) referred the case to the Police for investigation to establish whether any criminal offence had been committed by the auctioneer or its Managing Director. The Police informed GLD on 18 April 2007 that their investigation had been completed and that there was insufficient evidence to support a charge against any person. The Police re-examined the case after noting that the Managing Director of the auctioneer had returned to Hong Kong and informed GLD on 9 July 2007 that there would be no prosecution due to insufficient evidence.

(b) Internal investigation had been conducted to ascertain whether any of the officers involved in managing the contract with the auctioneer giving rise to the debt case (covering the period from 1 April 1996 to 31 August 1998) had failed to discharge their duties properly; and the responsibilities and accountability of individual officers concerned in relation to the default in payment proceeds. Disciplinary actions had been taken against officers who should be held responsible for the failure to supervise the contract in accordance with the established civil service disciplinary mechanism. Improvement measures had also been formulated to step up the monitoring of payments, including requirement for quarterly submissions on arrears of revenue, comprehensive reviews of the accounting procedures relevant to the sale of government properties by auction and revamping the auction procedure by imposing tighter control over the receipt of revenue from auctions.

34. On the latest position, DD/GL advised that a hearing on the bankruptcy petition against the Managing Director of the auctioneer was held on 5 September 2007. The Court granted a Bankruptcy Order with costs against the Managing Director. The Official Receiver, as the appointed trustee, had conducted an investigation into the Managing Director's financial position and advised that the Managing Director had no assets to settle the debt owed to the Government. The Official Receiver also considered it unlikely that there would be dividends for distribution from the liquidation of the auctioneer. Subject to members' views, the Administration would review the matter after expiry of the relevant Bankruptcy Order in 2011 to ascertain whether the debt was irrecoverable and to seek the agreement of the Finance Committee (FC) to write off the debt where appropriate.

35. There being no queries from members, the Chairman said that the Panel noted the Administration's report. He asked the Administration to keep track of the progress and, where appropriate, seek the FC's agreement to write off the debt in due course .

III. Any other business

36. There being no other business, the meeting ended at 4:13 pm.

Council Business Division 1
Legislative Council Secretariat
26 September 2008