

立法會
Legislative Council

LC Paper No. CB(1)2439/08-09
(These minutes have been seen
by the Administration)

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**Subcommittee on Proposed Resolutions under Section 29 of the Public Finance
Ordinance (Cap. 2) and Section 3 of the Loans Ordinance (Cap. 61)**

**Minutes of meeting
held on Monday, 8 June 2009, at 8:30 am
in the Chamber of the Legislative Council Building**

Members present : Hon Jeffrey LAM Kin-fung, SBS, JP (Chairman)
Hon Albert HO Chun-yan
Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Hon Starry LEE Wai-king
Dr Hon LAM Tai-fai, BBS, JP
Hon Paul CHAN Mo-po, MH, JP
Hon CHAN Kin-por, JP
Hon Tanya CHAN
Hon WONG Kwok-kin, BBS
Hon Mrs Regina IP LAU Suk-ye, GBS, JP

Member attending : Dr Hon Margaret NG

Member absent : Dr Hon Philip WONG Yu-hong, GBS

- Public officers attending** : Financial Services and the Treasury Bureau
- Mr CHENG Yan-chee, JP
Deputy Secretary for
Financial Services and the Treasury (Financial Services) 1
- Miss Natalie LI
Principal Assistant Secretary for
Financial Services and the Treasury (Financial Services) 5
- Miss Ann CHAN
Principal Assistant Secretary for
Financial Services and the Treasury (Treasury)(I)
- Hong Kong Monetary Authority
- Mr Edmond LAU, JP
Executive Director (Monetary Management)
- Mr Daryl HO
Head (Market Development)(Acting)
- Department of Justice
- Mr Michael LAM
Senior Assistant Law Draftsman
- Ms Lonnie NG
Senior Government Counsel
- Clerk in attendance** : Ms Rosalind MA
Chief Council Secretary (1)5
- Staff in attendance** : Miss Kitty CHENG
Assistant Legal Adviser 5
- Ms Amy LEE
Senior Council Secretary (1)8
- Ms Haley CHEUNG
Legislative Assistant (1)8
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I Meeting with the Administration

Follow-up to issues raised at the meeting on 25 May 2009

(LC Paper No. CB(1)1813/08-09(01) — List of follow-up actions arising from the second meeting on 25 May 2009 prepared by the Legislative Council Secretariat

LC Paper No. CB(1)1721/08-09(01) Hon Mrs Regina IP's comments on the proposed resolutions (English version only)

LC Paper No. CB(1)1813/08-09(02) — Hon Mrs Regina IP's letter to the Chairman of the Subcommittee dated 2 June 2009 (English version only)

LC Paper No. CB(1)1813/08-09(03) — Administration's response to the follow-up questions and issues raised

LC Paper No. CB(1)1813/08-09(04) — Hong Kong Mortgage Corporation Limited's written response to questions raised by Hon Mrs Regina IP)

Relevant papers previously issued

(LC Paper No. CB(1)1567/08-09 — Background Brief on proposed resolutions under section 29 of the Public Finance Ordinance (Cap. 2) and section 3 of the Loans Ordinance (Cap. 61) prepared by the Legislative Council Secretariat

LC Paper No. CB(3)553/08-09 — Proposed resolution under section 29 of the Public Finance Ordinance (Cap.2)

LC Paper No. CB(3)554/08-09 — Proposed resolution under section 3 of the Loans Ordinance (Cap.61)

G6/123/5C — The Legislative Council Brief issued by the Financial Services and the Treasury Bureau

LC Paper No. LS68/08-09

— Legal Service Division Report on Proposed resolution under section 3 of the Loans Ordinance (Cap. 61) and proposed resolution under section 29 of the Public Finance Ordinance (Cap. 2))

The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

Follow-up actions by the Administration

2. To facilitate the Subcommittee's scrutiny of the proposed resolution under section 29 of the Public Finance Ordinance (Cap. 2) (PFO), the Administration agreed to provide further response to members' request to set out the policy objective of the Government Bond Programme (GBP) in the proposed resolution.

3. The Subcommittee noted that individual members (including Mr James TO and Mr Albert HO) intended to move amendments to the proposed resolution under PFO to set out the purpose of establishment and the investment arrangement of the Bond Fund, as well as the establishment of a consultation committee to give advice on the administration and investment of the Bond Fund. These members would provide the proposed amendments to the Subcommittee for consideration before the next meeting. The Administration was invited to provide its response to the proposed amendments when they became available.

(Post-meeting note: the proposed amendments of Mr KAM Nai-wai, Mr James TO and Mr Albert HO were issued to members vide LC Paper Nos. CB(1)1965/08-09(01) to (03) on 16 June 2009. The Administration's responses to paragraph 2 and 3 were issued to members vide LC Paper Nos. CB(1)1924/08-09(01) and CB(1)1994/08-09(01) on 16 June 2009 and 19 June 2009 respectively.)

II Any other business

Date of next meeting

4. Members agreed that the fourth meeting should be held on Monday, 18 June 2009 at 2:30 pm

5. There being no other business, the meeting ended at 10:41 am.

**Proceedings of the
Subcommittee on Proposed Resolutions under Section 29 of the Public Finance
Ordinance (Cap. 2) and Section 3 of the Loans Ordinance (Cap. 61)
Meeting on Monday, 8 June 2009, at 8:30 am
in the Chamber of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000213 – 001212	Chairman Mrs Regina IP Administration HKMA	<p>(a) Mrs Regina IP's dissatisfaction that the Administration had not taken forward her suggestion to use the name "Debt Fund". Her enquiry on the names used by other places for the funds raised under government bond/debt issuance programmes.</p> <p>(b) The Administration's clarification that due consideration had been given to the alternative name put forward by Mrs IP. The Administration's advice that while different names had been used by different economies, as the Government only intended to issue bonds under GBP and had no plan to raise other forms of debt, "Bond Fund" was considered a more appropriate name for describing the fund to be established under GBP.</p> <p>(c) HKMA's advice that the term "Debt Fund" would convey a more generic meaning covering other forms of borrowing. Most bond-issuing governments adopted the term "bonds" for securities of tenors of more than one year, such as the Japanese Government Bonds, the Korean Treasury Bonds, and the Singapore Government Securities.</p>	
001213 – 002232	Chairman Mr Ronny TONG Administration	<p>(a) Mr Ronny TONG's concern about the need for and merits of issuing government bonds when the Government did not need the sums raised for financing its expenditure. Mr TONG's further concern about whether the investment of moneys in the Bond Fund could secure sufficient return for meeting the financial obligations and liabilities associated with GBP, and the possible implication on public finance in the event of investment losses of the Bond Fund.</p> <p>(b) The Administration's advice that as explained in its previous paper, some government bond programmes, such as the Singapore</p>	

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		<p>Government Securities Programme, had been issuing bonds mainly for the purpose of market development. Under the proposed framework of GBP, the sums raised under GBP would be placed with the Exchange Fund (EF) for investment, adopting the same investment arrangement of EF, and the same "fixed rate" sharing arrangement applicable to the fiscal reserves would apply to the Bond Fund to provide a stable investment return.</p> <p>(c) Responding to Mr TONG's view about issuing asset-backed securities to finance public projects instead of issuing bonds under GBP, the Administration's advice that raising funds for financing public projects was not necessary at this stage when public resources could cover the expenses required.</p>	
002233 – 003216	Chairman Mr James TO Administration HKMA	<p>(a) Mr James TO's remark that Members belonging to the Democratic Party (DP Members) would not support the proposed resolutions if there was no explicit provision on the purpose of the Bond Fund in the proposed resolution under PFO.</p> <p>(b) The Administration's response that paragraphs (e)(i) and (ii) of the proposed resolution under PFO had clearly specified the purpose of the Bond Fund. The policy objective of GBP had also been set out in paragraph 1 of the Explanatory Note to each of the proposed resolutions, which was "to promote the further development of the bond market in Hong Kong". Taking into consideration earlier comments of Subcommittee members, the Administration had proposed to elaborate paragraph 1 of each of the aforesaid Explanatory Notes to highlight this policy objective. The idea of repeating the objective in the resolutions had been examined. The Department of Justice (DoJ) had advised against this approach as it might give rise to uncertainty in interpretation and litigation risk, which was not conducive to the development of the bond market in Hong Kong.</p> <p>(c) Mr James TO's view that sums raised under GBP should not be used to finance public expenditure and FS should not be given</p>	

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		<p>unrestricted power in the investment of moneys in the Bond Fund.</p> <p>(d) HKMA's advice that the purpose of the Bond Fund had already been clearly stipulated in the proposed resolution under PFO, which was to repay principal, meet the financial obligations and liabilities associated with GBP and to make investment. The moneys in the Bond Fund could not be used for other purposes outside the scope of the aforesaid resolution without the approval of the Legislative Council (LegCo) to amend the relevant provision of the resolution.</p>	
<p>003217 – 004017</p>	<p>Chairman Ms Miriam LAU Administration HKMA</p>	<p>(a) Ms Miriam LAU's concern on whether the sums in the Bond Fund would be transferred to the general revenue or used for financing public projects. Her view that the proposed borrowing ceiling of HK\$100 billion was not a big sum and might not help promote the development of the local bond market.</p> <p>(b) The Administration's advice that the purposes of the Bond Fund had already been set out in paragraphs (e)(i) and (e)(ii) of the proposed resolution under PFO, moneys in the Bond Fund could not be used for purposes like financing public expenditure unless with the approval of LegCo to amend the relevant provision of the resolution.</p> <p>(c) On the overall issuance size, the Administration's advice that the borrowing ceiling of HK\$100 billion had been proposed having regard to the on-going nature of GBP and the views of major market participants. The borrowing ceiling represented a long-term target over a period of five to ten years and the timing and size of issuance for individual tranche would be determined taking into account market response. Approval would be sought from LegCo to increase the borrowing ceiling in the future if necessary for the development of the local bond market.</p> <p>(d) Responding to Ms LAU's further concern whether sufficient investment return could be secured to meet the financial obligations and liabilities associated with GBP, the</p>	

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		<p>Administration's advice that the sums raised under GBP would be placed with EF, adopting the same investment arrangement as EF. The "fixed rate" sharing arrangement applicable to the Bond Fund was expected to provide a stable investment return for the Bond Fund. The rate for return for 2009 would be 6.8%. HKMA's further advice that the compound annual investment return of EF from 1994-2008 was 6.1%. The long-term and conservative investment strategy of EF could serve the need of the Bond Fund as the investment risk would be averaged out over a longer term.</p>	
<p>004018 – 004900</p>	<p>Chairman Mr Albert HO Administration</p>	<p>(a) Mr Albert HO's concern about the unrestricted power of FS on the administration and investment of the Bond Fund. His view that the purpose of the Bond Fund and the arrangement of placing moneys in the Bond Fund with EF for investment should be stated explicitly in the proposed resolution under PFO. His opinion that a consultation committee comprising LegCo Members should be formed to give advice on the administration and investment of the Bond Fund.</p> <p>(b) The Administration's advice that the purpose of the Bond Fund and the policy objective of GBP had already been set out in paragraphs (e)(i) and (ii) of the proposed resolution under PFO and the Explanatory Note to the two proposed resolutions. Details on proposed framework of GBP, including the investment arrangement for the Bond Fund, had been set out in writing in the information papers issued to LegCo. FS would indicate the intended investment arrangement of the Bond Fund in his speech for moving the motion regarding the proposed resolution under PFO.</p>	
<p>004901 – 005720</p>	<p>Chairman Mr Ronny TONG Administration HKMA</p>	<p>(a) Mr Ronny Tong's concern about whether the investment return of the Bond Fund under the "fixed rate" sharing arrangement would be sufficient for meeting the financial obligations and liabilities in relation to sums borrowed under GBP.</p> <p>(b) The Administration's reiteration that the proposed arrangement for placing the moneys</p>	

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		<p>in the Bond Fund with EF, adopting the same investment arrangement as EF, coupled with the adoption of the "fixed rate" sharing arrangement, sought to provide the Bond Fund with a reasonable and stable investment return.</p> <p>(c) HKMA's further explanation that the aforesaid investment arrangements would allow the Bond Fund to benefit from the economy of scale of assets managed under EF. The substantial size of EF could also provide sufficient investment diversification for the achievement of a stable investment return and effective management of risk. The "fixed rate" sharing arrangement also meant that the investment income to be paid to the Bond Fund for a year would be calculated on the basis of the average rate of return of EF's investment portfolio over the preceding six years or the average annual yield of three-year Exchange Fund Notes for the previous year, whichever was the higher. In gist, the aforesaid arrangements would be conducive to providing a reasonable and stable investment return to the Bond Fund.</p>	
005721 – 010120	<p>Chairman</p> <p>Mr CHAN Kin-por</p> <p>Mr WONG Ting-kwong</p>	<p>(a) Mr CHAN Kin-por's view that the Government should make good use of the existing favourable market conditions and expedite the implementation of GBP.</p> <p>(b) Mr WONG Ting-kwong's view that when considering members' suggestion of explicitly stating the purpose of the Bond Fund in the proposed resolution under PFO, the Administration should strike a balance between the need to allow flexibility in the implementation of GBP and to state the policy objective of GBP in the legislation.</p>	
010121 – 011851	<p>Chairman</p> <p>Mr Paul CHAN Administration</p> <p>Mrs Regina IP</p>	<p>(a) Mr Paul CHAN's enquiry on reasons for not setting out the purpose of the Bond Fund in the proposed resolutions.</p> <p>(b) The Administration's advice that such an approach might give rise to uncertainty in interpretation of matters such as whether the policy objective stated could or would be achieved by GBP, the Bond Fund or individual elements thereof. Such</p>	

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		<p>uncertainty was undesirable, as any litigation arising there from might adversely affect the smooth implementation of GBP. This might also dampen investors' interest to invest through GBP and hence would not be conducive to the further development of the bond market in Hong Kong. Noting members' concerns, the Administration had proposed to further elaborate paragraph 1 of the Explanatory Note to each of the proposed resolutions. FS would also state the policy objective of GBP in his speech for moving the motions regarding the two proposed resolutions.</p> <p>(c) Mrs Regina IP's view that the proposed elaboration of the Explanatory Notes had the effect of expanding the scope of the Bond Fund. Her concern that the undertaking made by FS in this speech for moving the motions regarding the two proposed resolutions would have no legal effect. Her view that the policy objective of GBP for development of the bond market must be set out in the legislation to ensure the proper use of moneys in the Bond Fund.</p> <p>(d) The Administration's explanation that the proposed elaboration of the Explanatory Note to each of the proposed resolutions would set out clearly the policy objective of GBP. Details of the implementation framework for GBP had been provided in the papers issued to LegCo. The Administration's reiteration that FS would state the policy objective of GBP in his speech for moving the motions regarding the two proposed resolutions.</p>	
011852 – 012405	Chairman Mr Abraham SHEK HKMA	<p>(a) Mr Abraham SHEK's concern about investment returns of the Bond Fund and the costs incurred for HKMA to offer bonds under GBP and invest the sums raised. His concern about the impact of GBP on the capital market, notably whether the issuance of bonds under GBP would reduce the liquidity available in the banking system and increase the difficulties of small and medium-sized enterprises in obtaining loans.</p> <p>(b) HKMA's response that the average rate of return of EF's investment portfolio over the</p>	

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		<p>past six years was 6.8%. From 1994 to 2008, EF had only recorded a negative investment return in one year i.e. 2008, primarily attributable to the financial tsunami. The Bond Fund was expected to receive a stable investment return under the "fixed rate" sharing arrangement. According to the proposed framework of GBP, FS would direct HKMA to assist in coordinating the offering of bonds under GBP and investing the moneys in the Bond Fund. Costs arising from the offering of bonds under GBP that were purely administrative in nature, such as staff cost, would not be charged to the Bond Fund.</p>	
<p>012406 – 013526</p>	<p>Chairman Mr James TO Administration</p>	<p>(a) Mr James TO's view that the proposed resolution under PFO should be amended to:</p> <ul style="list-style-type: none"> (i) set out the policy objective of GBP to ensure that moneys in the Bond Fund would not be used for financing public expenditure; (ii) provide that the institutional tranche would be offered through competitive tenders; (iii) state the investment arrangement of the Bond Fund, such as stating that proceeds raised under GBP would be placed with EF for investment, and (iv) provide for the formation of a consultation committee to give advice on the administration of the Bond Fund. <p>(b) The Administration's advice that it had noted Mr TO's above concerns and provided written responses to the Subcommittee. In addition to the proposed elaboration of the Explanatory Note to each of the proposed resolutions, FS would state the policy objective of GBP in his speeches for moving the motions regarding the two proposed resolutions. Paragraphs (e)(i) and (e)(ii) of the proposed resolution under PFO had set out clearly the purposes for which the Bond Fund was to be established, and moneys therein might be expended. Moneys in the Bond Fund could not be used to finance public expenditure. Breakdowns on the expenses charged to the Bond Fund</p>	

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		<p>would be provided in the annual Estimates to be laid before LegCo in the annual budgetary exercise.</p>	
<p>013527 – 014427</p>	<p>Chairman Ms Miriam LAU Administration</p>	<p>(a) Ms Miriam LAU's suggestion of adding a preamble to the proposed resolutions to specify the policy objective of GBP. Her concern on whether the investment of moneys in the Bond Fund could secure sufficient return for meeting the financial obligations and liabilities associated with GBP.</p> <p>(b) The Administration's advice that a long-term and conservative investment strategy would be adopted for the Bond Fund. The investment objectives were to preserve capital and generate reasonable investment returns for covering the financial obligations and liabilities associated with GBP. Given the "fixed rate" sharing arrangement, the Administration expected that the moneys available under the Bond Fund should be adequate to meet the aforesaid financial obligations and liabilities. In the unlikely event of shortfall in the Bond Fund, and that transfer of funds from the general revenue to the Bond Fund was necessary, approval of the LegCo would be sought for the transfer.</p> <p>(c) Responding to Ms LAU's concern about the proportion of bonds to be issued under GBP for institutional and retail investors respectively, the Administration's advice that the size of individual bond issues, including institutional and retail tranches, would be determined having regard to relevant factors such as the prevailing market conditions.</p>	<p>The Administration to take actions as required in paragraph 2 of the minutes.</p>
<p>014428 – 015721</p>	<p>Chairman Mr Albert HO Mrs Regina IP Mr CHAN Kam-lam Administration</p>	<p>(a) Mr Albert HO's remark that while DP Members supported the policy objective of GBP in principle, they considered it important to ensure prudent administration and investment of the big sum in the Bond Fund. His indication that DP Members would propose amendments to the proposed resolution under PFO to set out the purpose of the Bond Fund and restrict the power of FS in the administration and investment of the Bond Fund. Mrs Regina IP shared Mr HO's idea of the proposed amendments.</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>(b) Mr CHAN Kam-lam's support for GBP for the development of the local bond market. His view that the proposed framework of GBP was appropriate.</p> <p>(c) The Administration's reiteration that stating the policy objective of GBP in the resolutions might give rise to uncertainty in interpretation and litigation risk, which were undesirable. In response to members' concern, the Administration had proposed to elaborate the policy objective in each of the Explanatory Note to the proposed resolutions. In view of the long-term nature of GBP, the Administration considered it undesirable to set out any specific investment arrangement in the proposed resolution under PFO. It would be necessary to allow room for FS to fine-tune the specific investment arrangement under unforeseeable or exceptional circumstances, if any, in the long run. Moreover, the role of FSTB and HKMA in the administration and investment of the Bond Fund had been clearly provided in the papers issued to LegCo.</p>	<p>The Administration to take action as required in paragraphs 2 and 3 of the minutes.</p>
<p>015722 – 021158</p>	<p>Chairman Mr James TO Mr Albert HO Administration Mr CHAN Kam-lam Mrs Regina IP Ms Miriam LAU</p>	<p>Date of the next meeting</p>	