立法會
Legislative Council

LC Paper No. CB(1)2784/09-10
(These minutes have been seen by the Administration)

Ref : CB1/PL/FA/1

Panel on Financial Affairs

Minutes of meeting
held on Monday, 7 June 2010 at 10:00 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 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 Emily LAU Wai-hing, JP Hon Abraham SHEK Lai-him, SBS, JP Hon Jeffrey LAM Kin-fung, SBS, JP Hon Andrew LEUNG Kwan-yuen, SBS, JP Hon WONG Ting-kwong, BBS, JP Hon CHIM Pui-chung Hon KAM Nai-wai, MH Hon Starry LEE Wai-king Dr Hon LAM Tai-fai, BBS, JP Hon Paul CHAN Mo-po, MH, JP Hon CHAN Kin-por, JP
Members attending :	Hon Fred LI Wah-ming, SBS, JP Hon WONG Kwok-hing, MH Hon LEE Wing-tat Hon WONG Kwok-kin, BBS
Members absent :	Dr Hon Philip WONG Yu-hong, GBS Hon Vincent FANG kang, SBS, JP Hon Mrs Regina IP LAU Suk-yee, GBS, JP

Public officers attending : Agenda Item IV

Mr John TSANG, JP
Financial Secretary

Mrs Helen CHAN, JP
Government Economist

Mr Freely CHENG
Administrative Assistant to Financial Secretary

Agenda Item V

Mr John LEUNG, JP
Deputy Secretary for Financial Services and the Treasury (Financial Services)

Ms Ada CHUNG, JP
Registrar of Companies
Companies Registry

Ms Elizabeth Mo
Deputy Principal Solicitor (Company Law Reform)
Companies Registry

Agenda Item VI

Mr Clement LEUNG, JP
Deputy Secretary for Financial Services and the Treasury (Treasury)

Miss Shirley KWAN
Principal Assistant Secretary for Financial Services and the Treasury (Treasury)

Mr Jack CHENG, JP
Assistant Commissioner (Administration and Staff Development)
Rating and Valuation Department

Ms Sandy JIM
Principal Valuer (Special Properties Division)
Rating and Valuation Department

Clerk in attendance: Ms Anita SIT
Chief Council Secretary (1)5

Staff in attendance : Mr KAU Kin-wah
Assistant Legal Adviser 6

Mr Noel SUNG
Senior Council Secretary (1)4

Mr Fred PANG
Council Secretary (1)5

Ms Haley CHEUNG
Legislative Assistant (1)8

Action

I Confirmation of minutes of meeting and matters arising

(LC Paper No. CB(1)1847/09-10 — Minutes of the meeting on 8 April 2010

LC Paper No. CB(1)2143/09-10 — Minutes of the meeting on 3 May 2010)

The minutes of the meetings held on 8 April 2010 and 3 May 2010 were confirmed.

II Information papers issued since the last meeting

(LC Paper No. CB(1)1944/09-10 — First Quarter Economic Report 2010 and the press release

LC Paper No. CB(1)1955/09-10 — Hong Kong Association of Banks' reply dated 14 May 2010 regarding the submission from the Hong Kong Blind Union expressing concern on the provision of Automatic Teller Machines for the visually impaired (English version only) (Restricted to members))

2. Members noted the information papers issued since the last regular meeting on 3 May 2010.

III Date of next meeting and items for discussion

(LC Paper No. CB(1)2112/09-10(01) — List of outstanding items for discussion

LC Paper No. CB(1)2112/09-10(02) — List of follow-up actions)

Regular meeting in July 2010

3. Members noted that the following items would be discussed at the next regular meeting scheduled for 5 July 2010:

(a) Proposed establishment of an independent Insurance Authority;

(b) Legislative proposal to enhance the qualifying debt instrument scheme; and

(c) Implementation of System Infrastructure Enhancement Project for the Inland Revenue Department.

4. The Chairman informed members that the Administration had indicated that it would propose additional items for discussion by the Panel in July, and members would be informed of the detailed arrangements in due course.

(*Post-meeting note*: Subsequent to the meeting, the Administration proposed and the Chairman agreed that the two items at paragraph 3(b) and (c) above should be discussed at the regular meeting on 5 July 2010, whereas the item at paragraph 3(a) above and an additional item on "Review of corporate rescue procedure legislative proposals" would be discussed at a special meeting to be held on 19 July 2010. Members were informed of the arrangements vide LC Paper No. CB(1)2228/09-10 on 14 June 2010.)

IV Briefing by the Financial Secretary on Hong Kong's latest overall economic situation

(LC Paper No. CB(1)2112/09-10(03) — Administration's paper on Hong Kong's recent economic situation and near-term outlook)

Briefing by the Administration

5. At the invitation of the Chairman, Financial Secretary (FS) briefed Members on the latest economic situation by highlighting the following –

(a) Global economic recovery had proceeded quite well in the first quarter of 2010. The International Monetary Fund (IMF) had revised its forecast on the global economic growth for 2010 from 3.9% to 4.2%. The economic growth in the Asian region, in particular the Mainland, was the strongest. The GDP growth in the Mainland reached 11.9% in the first quarter of 2010. Recently the strategy of Asian economies had shifted from stimulating the economy to containing the rise of inflation. The US economy also churned out a better than expected performance in the first quarter of 2010 with improved market confidence and consumer spending, although the unemployment rate remained high and the credit problem persisted. The European economies were still sluggish under the drag of the sovereign-debt problem, high unemployment rate and huge fiscal deficits.

(b) Economic recovery in Hong Kong became increasingly entrenched in the first quarter of 2010. Having resumed a positive year-on-year growth of 2.5% in the fourth quarter of 2009, GDP grew markedly further by 8.2% in real terms in the first quarter of 2010. With the Hong Kong economy bouncing back for four quarters in a row, by the first quarter of 2010, GDP had largely returned to the peak in early 2008. Exports and consumer spending both recorded a double digit growth in the first quarter of 2010. The performance of exports of services was particularly impressive, reflecting a rapid expansion of the travel industry, and the recovery of financial services and trade. Merchandise exports rebounded strongly, which was mainly led by the sizable growth in exports to the Mainland and other Asian markets. Exports to the US finally resumed modest growth after five quarters of significant decline. Exports to Europe were still down. The performance of exports to the US and Europe still lagged behind that of the Asian markets.

(c) Internally, consumer sentiments stayed firm in the first quarter of 2010. Retail consumption rose by 15.8% year-on-year in real terms. The growth rate in April 2010 was 12.4%. Consumer sales had exceeded the level prior to the global financial crisis. Business investment continued to rise. With a strong business sentiment and early implementation of the Government infrastructure projects, the overall investment spending in the first quarter of 2010 continued to record a double digit growth.

(d) The local labour market showed its resilience. The unemployment rate had dropped in the past year, reaching 4.4% in February-April 2010. Downward pressure on labour wages and earnings that once prevailed in the aftermath of the global financial tsunami by and large disappeared by the end of 2009. Companies also showed stronger intention to re-activate their hiring plans. With an improved economy, job opportunities and wages would increase, which would enable people of different spectrums of the society to share the fruits of economic recovery. There were however uncertainties in the external environment, and the Government would pay close attention to the economic development in the US and Europe.

(e) The residential property market continued to firm up during the first quarter of 2010 in terms of both prices and transaction volume, after a sustained climb in 2009, which was mainly driven by abundant liquidity, ongoing accommodative interest rate and tight supply relative to demand. With the persistent surge in flat prices over the past year or so, the risk of a property market bubble remained. In order to ensure a healthy and stable development of the property market, the Government announced in the 2010-11 Budget measures to address the issue of flat supply, increase the transaction cost of property speculation, ensure transparency in property transactions and transaction prices, and to curb excessive expansion in mortgage lending. Further measures were announced in April 2010, with a view to forestalling the formation of a property market bubble. There were signs that the heated property market had been moderated; the number of property transactions registered with the Land Registry had dropped in May by 10% compared with April 2010. The Government would closely monitor the property market and assess the effectiveness of the moderating measures.

(f) Given the current strong growth momentum in Hong Kong and in the region, and if no major external shocks occurred, GDP growth for 2010 as a whole would very likely exceed the forecast of 4% to 5% in the 2010-11 Budget. However, recognizing the prevailing uncertainties in the external environment, the Government maintained the forecast GDP growth at 4% to 5%. A further review would be conducted in August 2010.

(g) The Greek sovereign-debt problem had emerged as the most imminent threat to the external environment lately, and the global economic recovery was still wrought with uncertainties. The effect of the global financial crisis had yet to be over. Although the massive stabilization measures jointly introduced by the European Union (EU), the European Central Bank and the IMF had to a certain extent relieved the concerns about the contagion effect of the problem on other European countries with fragile fiscal positions, the effectiveness of the measures would hinge on whether Greece and other European countries involved could successfully redress their fiscal problems. Judging from the recent market reactions, the market remained concerned about the drag posed by austerity measures to be taken in the indebted European countries on the already fragile economic recovery in Europe. While Hong Kong's economic links with Greece were rather insignificant, those with the EU were notable. The Greek sovereign-debt problem would inevitably affect Hong Kong's exports of goods and services to the European markets. The problem would make it even more difficult to predict the exit policy of the US and other countries, and the future flows of capital in the Asian market. In addition, the political tension in northern Asia had added volatility to the financial markets, and might, to a certain extent, adversely affect Hong Kong's economic recovery. In view of the uncertainties in the external economic environment, the Government would draw up measures to meet the challenges posed by such uncertainties. Given the volatile global investment environment, investors should be cautious in making their investment decisions, taking into account the risks involved.

(h) The underlying consumer price inflation was 1.3% in April 2010 while the average inflation for the first quarter of 2010 was 0.9%. Inflationary pressure increased slightly in the first quarter of 2010 as the economic recovery became more entrenched. The Government had introduced in the 2010-2011 Budget relief measures amounting to $20 billion to relieve the burden on the low-income and underprivileged groups. The risk of a sharp increase in the inflation rate in 2010 was low, but might creep up modestly further in the rest of the year as the economic recovery proceeded. The Government would continue to closely monitor the inflation situation, in particular the impact of inflation on the low-income groups.

6. The Government Economist (GE) gave a powerpoint presentation on the latest developments in the Hong Kong economy, the updated economic forecasts for 2010 and the situation of low income households.

(*Post-meeting note*: The powerpoint presentation notes (LC Paper No. CB(1)2192/09-10(01)) were issued to Members by a Lotus Notes email on 7 June 2010.)

Discussion

Sovereign-debt problem of European countries

7. Pointing out that the sovereign-debt problem also emerged in Hungary recently in addition to Greece and some other European countries, Mr Andrew LEUNG was gravely concerned whether the global economy would experience another trough after the global financial tsunami, as a result of the European sovereign-debt problem. Mr WONG Ting-kwong and Mr Jeffrey LAM echoed Mr LEUNG's concern.

8. FS responded that the sovereign–debt problem had emerged in Hungary since late 2009, and the heavy fiscal deficits of a number of European countries such as Spain and Portugal had caused volatility to the global financial market, and increased the unpredictability of the flow of capital. Hong Kong investors should be prudent and careful in their investments, taking into account the global economic situation

and the level of risk they could bear. FS said that the European countries facing the sovereign-debt problem had to introduce austere measures to restrain their expenditure, which in turn would slow down their economic recovery and adversely affect Hong Kong's exports to the European countries; the EU market accounted for some 12% of Hong Kong's total exports of goods and 19% of Hong Kong's exports of services. In addition to the European sovereign-debt problem, unstable economic recovery in the US, the tension in northern Asia, the exit policy of Asian countries, and the rise of trade protectionism had turned the export outlook of Hong Kong more uncertain.

Asian and emerging markets

9. In view of the strong rebound of the Asian market after the global financial tsunami, Mr Andrew LEUNG enquired what measures would be taken to take advantage of the economic recovery in Asia, especially the Mainland, to expand Hong Kong's exports in goods and services to these countries.

10. In response, FS said that attempts had been made to expand Hong Kong's exports to markets such as India, Russia, the Middle East and South America. The Government's long term aim was to fully develop these markets and further boost Hong Kong's exports.

Property market

11. Mr WONG Kwok-hing pointed out that while the prices for small and medium sized residential flats had risen by about 16% in the past year, the rate of increase in wages during the same period was extremely low. Mr WONG opined that if the Government continued to maintain its high land premium policy, it would be increasingly difficult for people to afford purchasing their homes.

12. FS stressed that the Government had not adopted a high land premium policy. He pointed out that in order to ensure the healthy and stable development of the property market, the Government had implemented measures on four fronts, namely increasing flat supply by fine-tuning the land supply arrangements, discouraging property speculation, improving the transparency in property transactions and transaction prices, and preventing excessive expansion in mortgage lending. The measures had proved effective; property transactions and prices had leveled off in May 2010. FS said that the Government would closely monitor the situation of the property market, and if necessary, would introduce additional measures to ease the supply of residential flats.

13. The Deputy Chairman expressed grave concern that the prices of residential flats of less than 70 square metres had doubled since 2003, and enquired what measures would be taken to enhance the provision of small and medium sized residential flats. Mr KAM Nai-wai shared the Deputy Chairman's concern and asked whether the Government would consider setting a condition in the leases of certain sites that they were designated for development of small and medium sized flats.

14. FS responded that through the Government's new initiatives, about 60 000 new flats would be completed and available in the market in the next few years, including small and medium sized residential flats. A large number of small and medium sized flats were also available in the secondary market.

15. Mr KAM Nai-wai expressed concern that the recent Government land auction for a Tung Chung site had received lackluster response from property developers, and no bids were received for the residential development project above Nam Cheong station. There were media reports that the property developers' cold response was a result of the introduction of the "nine new measures and 12 requirements" on sale of uncompleted first-hand private residential properties. The Real Estate Developers Association of Hong Kong (REDA) had not fully accepted the announced new measures. Mr KAM asked whether the Administration would pursue legislative measures to regulate the sale of residential properties.

16. FS responded that the "nine new measures and 12 requirements" were part of the Government's initiatives to improve transparency in property transactions and transaction prices. The Lands Department had incorporated the "nine new measures and 12 requirements" in the Consent Scheme on 14 May 2010. The REDA had issued relevant guidelines to its members on 1 June 2010. The Government was discussing with the REDA regarding certain technical issues in implementing the new measures, with a view to enhancing the dissemination of transaction information, transaction fairness and transparency. Other measures would be implemented to discourage property speculation, prevent excessive expansion in mortgage lending, and increase the flat supply via fine-tuning the land supply arrangements. The Government would not rule out the possibility of introducing legislative measures if the desired effects of the new measures could not be achieved. FS pointed out that no abnormal signs were identified in the recent land auction. While the Government would maintain the market-driven Application List system as its principal mechanism for the sale of government land, the Government had fine-tuned the land supply arrangements by putting up several urban residential sites in the List for sale by auction or tender if they were not triggered. Meanwhile, there were more than 300 000 Home Ownership Scheme (HOS) flats, of which over 60 000 flats were already with premium paid, and hence could be put out on sale in the open market. The development of the property market should be subject to market force, and the recurrence of a negative equity situation should be avoided.

17. Mr CHAN Kin-por opined that although the debt-servicing ratio (i.e. ratio of mortgage payment to median household income) was still lower than the 20-year average ratio, this was mainly a result of the current low interest rate. Mr CHAN asked whether the Government had conducted any analysis of the debt-servicing ratio based on the normal level of interest rate. Mr CHAN also enquired whether the Government had conducted an analysis of the impact of Mainland buyers on the local property market.

18. FS responded that based on a stress test conducted by the Government, if the mortgage interest rate rose by 3%, the debt-servicing ratio would increase from the current ratio of 42% to 55%. Since Hong Kong was an international city, it was natural that many overseas investors, including Mainlanders, would have interests in acquiring a property in Hong Kong, especially those who were working in Hong Kong. Measures had been introduced in the context of the 2010-2011 Budget to increase the supply of flats.

19. Mr LEE Wing-tat expressed grave concern that while the property developer concerned had trumpeted the high sale prices of the flats at 39 Conduit Road, 20 out of the 24 deals announced, among them a world record $439 million sale of a top-floor duplex, were eventually found to have fallen through. Mr LEE opined that any misleading information provided by property developers would be unfair to residential property buyers. Mr LEE asked whether the Government would in addition to the "nine new measures and 12 requirements" announced, introduce further regulatory measures such as requiring property developers to disclose details of deals which had fallen through after the buyers had paid the deposits and/or before completion of the sale and purchase agreement. Mr LEE further enquired about the timetable for implementation of the regulatory measures on completed flats.

20. FS responded that the Government would monitor the implementation of the "nine new measures and 12 requirements" on sales of uncompleted first-hand private residential properties, in order to enhance the transparency in property transactions and transaction prices, and ensure fairness in property transactions. The Government would assess the effectiveness of the new measures and if necessary, would consider codifying the requirements for compliance by property developers. The relevant Government Bureau would be requested to consider Mr LEE's suggestion of introducing further regulatory measures on property transactions. FS added that REDA had agreed in principle to implement the regulatory measures on completed flats and was discussing with the Transport and Housing Bureau the technical aspects of the regulatory measures, with a view to implementing the measures as soon as practicable.

21. The Deputy Chairman requested that the Administration should provide information regarding the number of small and medium sized residential flats to be completed in the next few years, and measures to increase the supply of flats in the mass market (i.e. flats smaller than 70 square metres).

22. FS responded that the price of residential flats should be subject to the market force. GE supplemented that the supply of small and medium sized flats in the next three to four years was about 60 000 flats. The Rating and Valuation Department estimated that about 12 800 (about 90%) flats out of the 14 000 forecast completions in 2010, and about 9 000 out of the 11 000 residential flats to be built in 2011 would be small and medium sized flats.

(*Post-meeting note*: The information provided by the Administration was circulated to members vide LC Paper No. CB(1)2334/09-10(01) on 23 June 2010.)

Inflation

23. Mr WONG Ting-kwong and Mr CHAN Kin-por expressed concern about the impact of inflation on Hong Kong's economy, especially the rising prices of imported materials from the Mainland, and the appreciation of Renminbi (RMB). Mr Jeffrey LAM shared the same concern and pointed out that many imports of Hong Kong came from the Mainland, and Hong Kong enterprises operating in the Mainland had to pay for the materials and wages in RMB.

24. FS responded that the gradual increase in inflation was part of the reflationary process as the economic recovery proceeded. The forecast rate of headline consumer price inflation in 2010 was 2.3%. Netting out the effect of the Government's one-off relief measures, the underlying consumer price inflation rate would be 1.5%. While inflation was expected to go up modestly along with the increasingly entrenched recovery, the $20 billion relief measures introduced in the 2010-2011 Budget should render some help to the needy. As to the possible inflation pressure arising from Renminbi exchange rate movements, FS believed that the Central People's Government would continue to map out its strategy on the exchange rate of RMB based on the economic situation in the Mainland, and in the long run would aim to refine the RMB exchange system in a controllable and gradual manner.

25. Recalling that in an earlier briefing given to the Panel, the Chief Executive of the Hong Kong Monetary Authority (CE/HKMA) advised that a 10% appreciation of RMB would result in an increase of 0.5% in the Consumer Price Index of Hong Kong, Ms Starry LEE enquired about the bases for such a projection. Ms LEE opined that given that Hong Kong relied heavily on the supply of staple food from the Mainland, a 10% appreciation of RMB should have significant impact on Hong Kong's inflation rate.

26. FS said that the Government was aware of the impact of increased food prices on the low-income groups and had introduced the $20 billion relief measures to assist the low-income groups. As to the empirical research finding of HKMA cited by Ms Lee, FS felt that it would be more appropriate for HKMA to explain their research results.

Low-income groups

27. Noting that there were 190 600 low-income households whose average monthly income was below $4,000, and pointing out that people aged between 60 and 65 would not receive any Old Age Allowance or reclaim their Mandatory Provident Fund, Mr WONG Kwok-hing enquired what measures would be taken to assist the low-income households and the elderly.

28. FS pointed out that quite a portion of the low-income households were economically inactive households, i.e. members who had already retired, and hence were statistically classified as "low-income households" as they were not earning income any more. But this observation was not intended to dilute nor deny the phenomenon of income disparity. The Government had strived to tackle the issue from short, medium term and the long term perspectives. On the short term measures, the relief measures amounting to about $20 billion introduced in the 2010-2011 Budget should be able to bring relief to the low-income groups. The medium term measure was to continue to invest heavily in education and manpower training, and strengthen the employment support services, with a view to assisting the low-income groups and enhancing social mobility. In the long term, continued economic growth should benefit all strata of the society.

29. The Deputy Chairman and Ms Emily LAU expressed grave concern that the number of low-income households had continued to increase since 1997 and reached a record high level of 190 600 in 2010. Pointing out that the one-off relief measures would not help to solve the long-term problems of the low-income households and that the Government held a huge amount of reserve, the Deputy Chairman and Ms LAU asked whether the Government would take any long term measures and new initiatives to curb the increase in low-income households.

30. FS responded that the increase in the number of low-income households was mainly the result of the increase in small sized households and the ageing population, since 80% of the low-income households were either retiree or economically inactive households. Many of these low-income households were already under the social safety net of the Comprehensive Social Security Assistance Scheme (CSSA). For those who were not CSSA recipients, most of the elderly households, though not working any more and hence not receiving employment income, actually owned their houses, and thus had some form of assets. On this, the Government had introduced measures such as the Operation Building Bright and the Building Safety Loan Scheme to assist the households. The Government would conduct more objective and in-depth analysis of the situation with a view to devising more focused and comprehensive measures to tackle the issue.

31. Dr LAM Tai-fai enquired why a monthly household income of $4,000 per month or below was set for defining low-income households. Noting that the number of low-income households had risen from 172 100 to 190 600 in the past ten years, Dr LAM asked whether people who belonged to the low-income households in the past had been able to improve their standard of living over the years, or they remained in the category of low-income households. Mr Paul CHAN echoed Dr LAM's concern. He referred to the Government's figures and pointed out that in 2010, the percentages of households having a monthly income of $4,000 or below, below $8,000, below $12,000 and below $16,000 were about 8%, 21%, 34% and 45% of the total number of households respectively, Mr CHAN enquired about the vision of the Government in tackling the issue of a wide income disparity in the community. Mr CHAN opined that given that the number of low-income households had doubled since 1997, a review of the taxation system was warranted,

and before the income disparity issue was resolved, the Government should refrain from lowering the profits tax and standard income tax rates.

32. FS responded that there were constraints in interpreting the low-income group statistics on a household basis, as the size of households had diminished and the population was ageing. Many low-income households consisted of retirees who did not have any income and many others were economically inactive for various reasons. FS remarked that the Government paid close attention to the issue of low-income households, and had devised measures to tackle the issue. Over the past three years, the Government had increased its expenditure cumulatively by about 35%, much faster than the GDP growth rate over the same period, with a corresponding increase in expenditure to improve the standard of living of the lower income groups.

33. GE advised that in response to a request of Ms Emily LAU at a Panel on Financial Affairs meeting a few years ago, the Government had since then included in each FS's briefing to the Panel a report on the situation of low-income households, based on, for comparison purpose, a monthly household income of $4,000 or below. As a result of the trends of diminished households size and ageing population, the number of low-income households had increased over the years. Based on the statistics in the first quarter of 2010, about 85% of the low-income households comprised members who had retired and/or were economically inactive. In particular, for elderly low-income households, around 36% were receiving assistance from the CSSA scheme and thus were covered by the social safety net. Around 70% of the remaining non-CSSA low-income households actually owned their own residential property, and most had already paid off their mortgage loans. As such, she pointed out that using income level to delineate the rich and the poor would have its limitations and caveats, and she echoed FS's point that these figures needed more careful and indepth analysis.

Small and medium sized enterprises

34. Dr LAM Tai-fai was concerned that Hong Kong's exports would be adversely affected by the European sovereign-debt problem, Dr LAM asked whether the Special Loan Guarantee Scheme could be further extended beyond 2010 so as to assist the small and medium sized enterprises (SMEs) to tide over the difficult time. Mr Jeffrey LAM shared Dr LAM's concern. Mr Jeffrey LAM asked, in view of the volatile external economic environment and the scheduled termination of the Special Loan Guarantee Scheme at the end of 2010, whether the Government would refine the SME Loan Guarantee Scheme to provide further assistance to the SMEs.

35. FS responded that the Government had reviewed the latest global and local economic situation and maintained that the Special Loan Guarantee Scheme should be terminated at the end of 2010 as planned. The SME Loan Guarantee Scheme, which had proved effective in supporting the SMEs and retaining thousands of jobs, would continue to render assistance to SMEs. The Government would consider ways to fine-tune the SME Loan Guarantee Scheme to assist the SMEs.

36. Dr LAM Tai-fai enquired about the latest development on the review of section 39E of the Inland Revenue Ordinance (IRO) (Cap. 112) relating to the granting of tax allowances for machinery and plants used under the "import processing" arrangements.

37. FS responded that the issue relating to machinery and plants used under the "import processing" arrangement was not a purely taxation matter, and had wider implications than just revision of the IRO. A committee had been tasked to look into the issue and would propose recommendations on the matter in due course.

38. Ms Starry LEE expressed grave concern that Hong Kong manufacturers operating in the Mainland were facing great difficulties, arising mainly from the high inflation rate and increased wages. She enquired whether any measures would be taken to assist Hong Kong enterprises operating in the Mainland.

39. FS responded that the Government had been closely monitoring the situation of Hong Kong enterprises operating in the Mainland, in meeting the challenges posed by the external volatile economic environment and the changes in the exchange rate of RMB. The Hong Kong Economic and Trade Office in Guangdong had kept in contact with the enterprises and the relevant Mainland authorities, with a view to providing appropriate assistance to the Hong Kong enterprises.

Securities market

40. Pointing out that similar to the gambling business in Macao, Hong Kong's securities market played an integral role in Hong Kong's economy, Mr CHIM Pui-chung expressed concern that the Securities and Futures Commission (SFC) had recently further tightened its control over securities brokers and the Stock Exchange of Hong Kong had tightened the Listing Rules as well. He was concerned that excessive regulation by the regulators would stifle the development of Hong Kong's securities market. Mr CHIM enquired what measures would be taken by the Government to ensure that an equilibrium was maintained between regulation and development of the securities market. Mr CHIM opined that a review of the existing regulatory methodology was necessary, in view of the Lehman Brothers Minibonds Incident.

41. FS responded that the existing regulatory regime for the securities market had proved to be appropriate and was in line with international standards. The Government and relevant regulatory authorities would keep abreast of new developments and regularly review their regulatory approaches/measures to further improve the regulatory regime. A subcommittee of the Legislative Council was reviewing the issues relating to the Lehman Brothers Minibonds Incident, and the Government was taking follow-up actions in accordance with the relevant legislation.

2010 Outlook

42. Noting the positive factors and the uncertainties for the outlook of economy in 2010, Mr Abraham SHEK enquired about the impact of the flush of liquidity into Asia on Hong Kong's economy. Mr SHEK opined that the Government should aim to boost the economy and narrow the wealth gap between the rich and the poor.

43. In response, FS said that in the long run, the fundamental solution to the problems of unemployment and poverty was to promote overall economic growth so as to provide opportunities for wealth creation in the community. GE supplemented that since the outbreak of the global financial crisis in late 2008 and until the end of 2009, there had been an influx of $640 billion into Hong Kong's financial market, which had pulled down the interest rate close to the near zero% level. No major net fund inflow was observed since late 2009. Nor there had been any major net capital outflow in recent period. As a result of the sovereign-debt problem in Europe, the central banks of overseas countries had to revisit their timetable for the exit arrangements from the "quantitative easing" policy. In particular, the market put the possibility of a hike in interest rate in the US market in December 2010 at 34% lately, down from 55% a few months ago. The Government would continue to closely monitor the flow of capital in the market.

The Linked Exchange Rate System

44. Mr CHAN Kin-por asked, in view of the closer economic relation between Hong Kong and the Mainland, whether the Government would conduct a review of the Linked Exchange Rate System, and consider pegging the Hong Kong dollar with RMB instead of pegging to the US dollar.

45. FS responded that the Linked Exchange Rate System had proved to be appropriate for Hong Kong and the Government had no plan to review the system.

V Companies Ordinance rewrite

(LC Paper No. CB(1)2112/09-10(04) — Administration's paper on Companies Ordinance rewrite

LC Paper No. CB(1)1853/09-10(01) — Administration's consultation paper on second phase consultation on draft Companies Bill

LC Paper No. CB(1)2111/09-10 — Background brief on the Companies Ordinance rewrite prepared by the Legislative Council Secretariat)

Briefing by the Administration

46. On the invitation of the Chairman, the Deputy Secretary for Financial Services and the Treasury (Financial Services) (DS/FSTB) advised that the first phase consultation on the draft Companies Bill (CB) had been completed in March 2010. The Administration would issue the consultation conclusions after obtaining the views of the Standing Committee on Company Law Reform (SCCLR) on the 161 submissions received during the consultation. Another consultation document was published in May 2010 to consult the public on the remaining 10 parts of the draft CB and the following four highlighted issues-

(a) The first issue was related to the restrictions on a company giving financial assistance to a party, other than the company itself, for the purpose of acquiring its own shares. The Administration had attempted to streamline the rules on financial assistance in a manner similar to the New Zealand Companies Act in preparing the draft provisions of the CB, but noted that the meaning of financial assistance could be broadly interpreted to include guaranteeing a loan, etc. and the rules still remained to be so complex that a private company might have to incur substantial costs to understand the rules and might fall into "a trap for the unwary". The Administration therefore in this consultation exercise invited further public views on whether the restrictions on private companies should be abolished. Taking into account that the interest of small investors should be protected and public companies usually had resources to obtain legal advice, the Administration proposed to retain the rules for public companies.

(b) The second issue was about the requirement for preparation of directors’ remuneration reports. With reference to the similar requirements adopted in the United Kingdom Companies Act, the Administration had consulted the public in 2007 on a proposal of requiring (a) listed companies incorporated in Hong Kong and (b) unlisted companies incorporated in Hong Kong, whose members holding not less than 5% of voting rights had so requested, to prepare directors’ remuneration reports in addition to annual accounts. The Administration considered that the requirement would be too onerous for private companies and should be imposed on listed companies only. After discussing further with the Securities and Futures Commission (SFC) and the Hong Kong Exchanges and Clearing Limited (HKEx), the Administration proposed that the requirements should not be introduced in the CB but should be considered under the Listing Rules and / or the Securities and Futures Ordinance (Cap. 571) (SFO).

(c) The third highlighted issue was related to investigatory and enquiry powers. The Financial Secretary (FS) was currently empowered under the Companies Ordinance (Cap. 32) (CO) to conduct investigations and enquiries into the affairs of a company. The Administration proposed to modernize the relevant provisions in the

CO by making reference to the regimes under SFO and the Financial Reporting Council Ordinance (FRCO). In particular, under the proposal, the Registrar of Companies would also be empowered to obtain documents and information from relevant parties for ascertaining whether any conduct that would constitute an offence relating to the provision of false or misleading statements to the Registrar had taken place.

(d) The last highlighted issue was whether a new requirement should be introduced for a company to give reasons to explain its refusal to register a transfer of shares. The requirement was not specified in common law but was already included in the law of some jurisdictions such as the United Kingdom. The requirement would enhance transparency but might encourage litigation to challenge the decisions of directors who might feel compelled to obtain legal advice before refusing a transfer on discretionary grounds thereby increasing costs. The Administration would hear public views before deciding whether the requirement should be introduced.

Restrictions on financial assistance for acquisition of shares

47. The Deputy Chairman opined that the proposal to abolish restrictions on private companies giving financial assistance to a party for the purpose of acquiring its own shares would facilitate takeovers that were in favour of substantial shareholders only and were not in the interest of small shareholders. DS/FSTB advised that some jurisdictions such as the United Kingdom had opted for the abolition of financial assistance restrictions on private companies and retained the restrictions on public companies. They considered that, despite the abolition of the restrictions, other means were available to protect the interests of small shareholders. In Hong Kong, there were provisions in the CO based on which small shareholders could initiate litigation to safeguard their interests. Improvements to the provisions in the CB such as codification of directors' duty of care, skills and diligence were proposed as well. The Administration was open to comments on whether the restrictions should be retained.

Directors' remuneration report

48. The Deputy Chairman sought clarification on the Administration's stance on the requirement for listed companies to prepare separate directors' remuneration reports and whether it would seek to incorporate this requirement into the Listing Rules and / or the SFO. Ms Starry LEE also expressed concern whether it would be a setback if introduction of the requirement was not pursued. DS/FSTB advised that the Administration was yet to propose amendments to the Listing Rules or SFO to include the requirement. At present, all listed companies in Hong Kong were already required to disclose in their financial statements detailed information concerning the remuneration of individual directors and past directors under the Listing Rules. No significant non-compliance with this requirement had been identified by the HKEx. Since the Listing Rules were non-statutory in nature, the Administration was open to

further discussions on whether the requirement should be codified into statutory rules. Taking into account that most listed companies were incorporated outside Hong Kong, any initiative to legislate the requirement should be better pursued through amendments to the SFO rather than the CO.

Headcount test

49. Ms Starry LEE said that she learnt from some news reports that the Administration was inclined to abolish the headcount test because most respondents to the first phase consultation on the draft CB supported the abolition. She had expressed her views in previous meetings that, despite its possible loopholes/shortcomings, the headcount test served the function of safeguarding the interests of small shareholders. The Administration should look for arrangements to overcome the shortcomings or plug the loopholes of the headcount test. Ms LEE enquired about the background of the respondents providing views on the issue and asked in what ways the Administration had gauged the views of small shareholders. DS/FSTB advised that the Administration would consult the views of SCCLR before deciding whether the headcount test should be abolished or otherwise. The majority of the respondents to the consultation were supportive of the abolition of the headcount test, and they included not only listed companies but also a certain number of professional associations and trade associations. Ms LEE opined that the Administration should strike a balance between the interests of small shareholders and the interests of other parties, and should solicit views from small shareholders in future consultations.

VI Request for supplementary provision to Head 106 - Miscellaneous Services (Subhead 284 - Compensation)

(LC Paper No. CB(1)2112/09-10(05) — Administration's paper on supplementary provision to Head 106 – Miscellaneous Services Subhead 284 – Compensation)

50. The Deputy Secretary for Financial Services and the Treasury (Treasury) DS(Tsy) briefed members on the funding proposal by highlighting the salient points in the paper.

51. Mr Fred LI noted that the Rating and Valuation Department (RVD)'s assessments of the rateable values (RV) of the electricity supply system of Hongkong Electric Company Limited (HEC) were based on the Receipts and Expenditure method, in which the operator's cost of capital was adopted to estimate the return, whereas the Lands Tribunal ruled that the return permitted in HEC's Scheme of Control Agreement should be used to estimate its RV. Mr LI expressed concern that HEC had also lodged appeals regarding the RV assessments from 2005-2006 to 2009-2010, and the CLP Power Hong Kong Limited might lodge similar appeals. He enquired about the RV assessment arrangements for HEC before

2004-2005 and whether HEC would lodge appeal against the RV assessments prior to 2004-2005.

52. DS(Tsy) responded that the RV assessments of HEC's electricity supply system had been conducted based on RVD's professional valuation principles and past court rulings, and the methodology adopted was different from those for ordinary domestic and commercial properties. The basis used by the Government and HEC for estimating the operator's return were different, and the Court of Appeal had granted leave to the Government's application for appeal against the Lands Tribunal's judgment. DS(Tsy) pointed out that HEC had not raised any objection to the RV assessments prior to 2004-2005, and was not allowed to do so at this time because of the statutory time limit for raising objection to an RV assessment. DS(Tsy) stressed that without prejudice to the Government's position in the appeal to the Court of Appeal, the present funding proposal was made to forestall the accumulation of interest payable to HEC in case the Government's appeal was dismissed.

53. The Deputy Chairman, Mr CHIM Pui-chung and Mr Paul CHAN were gravely concerned about the implication of the HEC case on the RV assessments for other public utilities, and the large amounts of refund and interest involved. The Deputy Chairman enquired, in the event that the Government won the appeal case, whether HEC would pay to the Government the interest accrued on the refunded amounts and interest payments during the appeal period, in addition to the refunded amounts and the associated interest payments. The Deputy Chairman further asked whether the Government would review the principles and bases for the RV assessments for public utilities. Mr Jeffrey LAM echoed the Deputy Chairman's concern, and said that it might merely be due to the cost involved that other ratepayers had not lodged appeals to the Lands Tribunal against the RV assessments on their properties.

54. DS(Tsy) responded that pending the outcome of the Government's appeal to the Court of Appeal, the Government would seek legal advice as to, in the event the Government's appeal was allowed, the need for HEC to pay the Government the interest accrued on the refunded amounts and associated interest payments. While the Government might review the RV assessment arrangements in the light of the outcome of the appeal to the Court of Appeal, the assessment arrangements were based on sound professional and legal principles. DS(Tsy) pointed out that under the existing mechanism, a ratepayer who was not satisfied with the RV of his property could raise objection with the Commissioner of Rating and Valuation, and most objection cases were resolved at that stage. In the past four years, there were only four appeals decided by the Lands Tribunal, of which two were lodged by HEC. DS(Tsy) emphasized that the HEC appeal case was very unique involving an electricity supply system, and would not affect the RV assessment arrangements for other public utilities or ordinary domestic and commercial properties.

55. Mr CHIM Pui-chung asked whether the Government would recover the refunded amounts received by HEC in the appeal case through other means, as the

HEC was a public franchised company and its profits were subject to the Scheme of Control Agreement.

56. DS(Tsy) responded that HEC's case would be heard by the Court of Appeal, and the arrangement regarding the handling of the refunded amounts was subject to the Court of Appeal's judgment and discussion between the relevant Government Bureau and HEC in the context of the Scheme of Control Agreement.

57. The Chairman asked members whether they supported the funding proposal. The Deputy Chairman and Mr KAM Nai-wai indicated that they had reservation on the proposal. The Chairman concluded that members had not come to a conclusion whether the Panel supported the funding proposal.

VII Any other business

58. There being no other business, the meeting ended at 12:46 pm.

Council Business Division 1
Legislative Council Secretariat
31 August 2010