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**Report of the Bills Committee on
Betting Duty (Amendment) Bill 2013**

Purpose

This paper reports on the deliberations of the Bills Committee on Betting Duty (Amendment) Bill 2013 ("the Bills Committee").

Background

2. Under section 6GB of the Betting Duty Ordinance (Cap. 108) ("BDO"), the Secretary for Home Affairs ("SHA") may, by issuing a licence to a company, authorize the company to conduct betting on horse races (horse race betting conductor). Under section 6GD, during a charging period within which the licence issued to the horse race betting conductor is in force, a duty is charged at a progressive rate from 72.5% to 75% on the net stake receipts derived from the conduct of authorized betting on horse races in respect of each charging period. A horse race betting conductor will be charged further horse race betting duty under section 6GE where the guaranteed amount for a wholly or partially relevant charging period¹ exceeds the horse race betting duty charged under section 6GD.

3. At present, the Hong Kong Jockey Club ("HKJC") Horse Race Betting Limited is the only licensed horse race betting conductor in Hong Kong to conduct betting on both local and non-local horse races simulcast by HKJC. A local betting conductor may manage a local betting pool as a "separate pool", or manage the local and non-local betting pools together as a "commingled pool" whereby the participating jurisdictions would follow the same dividend distribution rates for the bet type(s) concerned. A betting duty would be charged on both local and non-local bets on local horse races managed under an inbound commingled pool but a discount rate² would apply to non-local bets accepted at a place outside Hong Kong.

¹ Under section 1A of BDO, a wholly (or partially) relevant charging period means a charging period, the whole (or part) of which falls within the three-year guarantee period.

² Section 6GD(2), (3) and (5) of, and Schedule 2 to, BDO.

4. According to the Administration, the prevailing international norm and practice is that betting duty would only be levied at source by the jurisdiction where the bet is made, and would not be charged on non-local bets even if they are managed in a commingled pool. The levy of betting duty on non-local bets under a commingled pool described in paragraph 3 above is not in line with the international norm and results in such non-local bets being doubly taxed by both the non-local jurisdiction (i.e. tax at source) and Hong Kong. All non-local bets on Hong Kong horse races are now placed in separate pools managed by non-local betting conductors, so the Government currently receives no betting duty from any inbound commingled pools.

5. According to the Legislative Council Brief, HKJC has been accepting bets of Hong Kong bettors on some prestigious non-local races and managing such local bets in separate pools on which betting duty is charged in the same manner as local bets placed on local horse races under BDO. If HKJC were to accept local bets under an outbound commingling arrangement whereby local bets from Hong Kong bettors are commingled with non-local bets accepted by a non-local horse race betting conductor in respect of the same bet type of the same non-local race, in the absence of a separate and specific betting duty structure for this arrangement under the existing BDO, such bets would be subject to the progressive betting duty rate from 72.5% to 75% stipulated in Schedule 1 to BDO. According to the Administration, in reality, no outbound commingling arrangement has ever been carried out by HKJC.

The Betting Duty (Amendment) Bill 2013 ("the Bill")

6. The Bill proposes amendments to BDO to abolish the betting duty for bets accepted outside Hong Kong in relation to the conduct of authorized betting on local horse races and to charge a duty at a flat rate of 72.5% on the net stake receipts from the conduct of authorized betting on non-local horse races, subject to a guaranteed amount of \$175 million per year during the three-year guarantee period as compared to the actual betting duty receipts to be derived from local bets placed on such non-local horse races. The Bill also proposes consequential amendments to BDO and the Betting Duty Regulations (Cap. 108 sub. leg. A). The Bill, if enacted as an ordinance, would come into operation on 1 September 2013.

The Bills Committee

7. At the House Committee meeting on 26 April 2013, members formed a Bills committee to study the Bill. The membership list of the Bills Committee is in **Appendix I**.

8. Under the chairmanship of Hon Tommy CHEUNG Yu-yan, the Bills Committee has held four meetings with the Administration. The Bills Committee also met with 12 deputations and individuals at one of these meetings. A list of the organizations and individuals which/who have submitted views to the Bills Committee is in **Appendix II**. To facilitate its scrutiny work, the Bills Committee also discussed with HKJC issues relating to the conduct of inbound and outbound commingling on horse race betting.

Deliberations of the Bills Committee

Justifications for introducing the proposed betting duty structure

9. Members note that according to the Administration, the objective of the proposed betting duty structure is to facilitate the conduct of two-way commingling on horse race betting. Members have asked about the justifications for introducing the legislative amendments to BDO.

10. The Administration's explanation is that the existing practice of levying betting duty on non-local bets that are managed in a commingled pool is not in line with the international norm and practice where betting duty is levied only at source (i.e. by the jurisdiction where the bet is made). Inbound commingling arrangement is, therefore, unattractive to non-local betting conductors and they opt for separate non-local pool arrangements domestically in respect of races that take place within Hong Kong. The proposed adjustments to the betting duty system are essential to facilitate more inbound commingling activities. While pursuing inbound commingling with Hong Kong, the non-local jurisdictions would expect Hong Kong to offer outbound commingling as a total package (i.e. allowing both outbound and inbound commingling). In the absence of a specific betting duty structure for the outbound commingling arrangement under the existing BDO, the current progressive betting duty rates will create uncertainty for HKJC's negotiations with the non-local jurisdictions.

11. The Administration has advised that from the perspective of a horse race betting regulator, commingling arrangement will reduce the possibility of illegal bookmakers taking advantage of arbitrage of odds differences as a result of the existence of multiple separate pools in various jurisdictions in respect of the same bet type on the same race, thus discouraging off-shore and illegal bookmaking activities. The Government considers that two-way commingling of horse racing

should be pursued so as to align with international practice of reciprocity and fair trade. According to the Administration, if the local and non-local betting pools concerned are managed respectively as a "commingled pool", the participating jurisdictions will follow the same dividend distribution rates for the bet type(s) concerned. The size of bets in a commingled pool is larger than that in a separate pool, thus offering more stable odds to bettors. Furthermore, the international and regional profile of HKJC will be raised as more inbound commingling activities will mean more "exports" of Hong Kong's world class races. Introducing these prestigious races of Hong Kong to other jurisdictions can also enhance the exposure of local jockeys and horses, which can in turn enhance their competitiveness on the international front.

Social impact of the implementation of two-way commingling arrangement

12. While supporting measures for effective combat of off-shore and illegal bookmaking activities, members are concerned that the two-way commingling arrangement might encourage more people to participate in gambling activities. Some members including Hon James TO, Hon Dr LAM Tai-fai and Hon IP Kwok-him have expressed concern that a larger and more stable bet pool as a result of the implementation of outbound commingling arrangement will lead to a higher payout to Hong Kong bettors which may in turn increase the attractiveness of non-local races to Hong Kong bettors and heighten gambling atmosphere in Hong Kong. The inbound commingling arrangement may also increase the odds on local horses, thus making them more attractive to local bettors.

13. The Administration has stressed that no additional gambling opportunities will be introduced as a result of the proposed adjustments to the betting duty system. The proposals are in line with its long-standing gambling policy that gambling activities should be restricted to a limited number of authorized gambling channels and the objective of authorizing gambling outlets to combat illegal gambling activities. As explained by the Administration, since horse race betting is conducted predominantly on a pari-mutuel basis³, dividend payment to Hong Kong bettors under a larger pool of an outbound commingling arrangement does not necessarily increase because the total number of winners in the jurisdictions concerned may increase as well. According to the industry's understanding, only a small group of enthusiastic racing fans and major bettors are interested in non-local races, as betting on such races requires good knowledge of the races and the competing jockeys and horses. In addition, there is a language barrier for the majority of the grass-root local bettors. The time difference between Hong Kong and some of the host countries constitutes an added deterrent factor.

³ According to section 6B of BDO, pari-mutuel betting means betting on the terms that any dividend payable on a bet depends on the respective shares of all winning bettors in the total amount of dividends available.

14. The Administration has assured members that the Bill is proposed on the premise of the existing scale of non-local simulcast races (i.e. 10 races on local race days and 15 simulcast days on non-local race days in each racing season). HKJC has also confirmed that its marketing strategy for non-local races on which authorized betting is conducted in Hong Kong by HKJC will not change as a result of the outbound commingling arrangement.

15. Some deputations have raised their concern with the Bills Committee that HKJC's jackpots for exotic bets will be increased substantially by non-local bets after the implementation of inbound commingling arrangement, which will encourage the growth of gambling culture. HKJC has advised that given the difference in betting interest, overseas exotic pools on local races are generally very small. It is, therefore, unlikely that the pool will be substantially increased due to injection of non-local bets into local exotic pool.

16. The Administration has informed the Bills Committee that the Betting and Lotteries Commission ("BLC") will monitor the situation after the implementation of the commingling arrangement, and seek to review the arrangement in one year's time after its implementation. The Government will provide the necessary support for BLC's monitoring effort and review.

Proposed betting duty structure

17. Noting that betting duty is currently charged at a progressive rate from 72.5% to 75% on the net stake receipts from the conduct of horse race betting, Hon James TO and Hon Abraham SHEK have asked about the considerations for the Administration to apply a flat betting duty rate at 72.5% to local bets on non-local races.

18. The Administration has explained that under the existing BDO, horse race betting duty is charged at 72.5% of the net stake receipts up to \$11 billion, increasing by half of a percentage point for increases of every \$1 billion in the receipts to \$15 billion, and at 75% of the receipts exceeding \$15 billion. According to the figures provided by HKJC, the annual amount of net stake receipts arising from local bets on non-local races is around \$240 million on average in the last three racing seasons, falling within the tax band for the first \$11 billion of net stake receipts where the lowest duty rate (i.e. 72.5%) is applicable. Therefore, the Administration considers it reasonable to adopt a flat betting duty rate at 72.5% for local bets on non-local races, so as to provide greater certainty on the taxation arrangement in HKJC's negotiations with non-local jurisdictions.

19. Hon Abraham SHEK and Hon Christopher CHUNG have expressed concern that HKJC's annual turnover and net stake receipts arising from local bets on non-local races may, as a result of an outbound commingling arrangement, increase substantially to such an extent that the net stake receipts subject to betting duty will exceed the first tax band under the current progressive duty system (i.e. \$11 billion) where the lowest duty rate (i.e. 72.5%) is applicable. The proposal of adopting a flat betting duty rate at 72.5% under the proposed betting duty arrangement for Hong Kong bets on non-local races may cause revenue loss for the Government in the long term.

20. Members note that under the proposed betting duty structure, any extra amount (e.g. licence fees) payable by HKJC for the rights to use sounds, visual images and/or other information relating to the non-local race and to conduct betting on the race in Hong Kong that exceeds 1.5% of the total amount of bets accepted by HKJC on the race will be deducted from the net stake receipts in calculating the amount of betting duty payable on the local bets placed on the race. Hon MA Fung-kwok has queried the need for providing such financial relief to HKJC in respect of the simulcast of non-local horse races.

21. The Administration's explanation is that the conduct of authorized betting on prestigious non-local races is essential for the materialization of two-way commingling arrangement. The provision of the proposed financial relief is to enable HKJC to maintain its conduct of authorized betting on prestigious non-local races. According to information provided by HKJC, the current simulcast arrangement is financially unsustainable due to increasing royalty fees paid to non-local operators from 1.5% to some 3% of the local turnovers concerned.

22. Upon members' enquiry, HKJC has advised that the current selection of simulcast programmes is based on sporting criteria and the need to provide services to the public so as to maintain Hong Kong as an international city. However, the global trend of increasing product fees, coupled with the high betting duty rates in Hong Kong, will render it economically unviable for HKJC to conclude simulcast arrangements with overseas operators.

Impact on the Government's revenue

23. According to HKJC's projection and assumptions based on the figures for the 2010-2011 racing season, the proposal of adopting a flat betting duty rate at 72.5% and reducing the tax base may lead to reduction in betting duty receipts for Hong Kong bets on non-local races by \$12 million. Members are concerned about the impact of the proposed betting duty structure on the Government's revenue and how the Administration can ensure that there will be no revenue loss

to the Government.

24. The Administration has advised that the proposed abolition of the betting duty on non-local bets placed on local races under the inbound commingling arrangement should not have any material impact on government revenue. As all non-local bets on local races are now placed in separate pools managed by the non-local betting conductors, the Government does not currently receive any betting duty from any inbound commingling arrangement. As for local bets placed on non-local races, for greater certainty on the taxation arrangement in HKJC's negotiations with non-local jurisdictions, the Administration considers that it is reasonable to adopt a flat betting duty rate for local bets on non-local races and for such purpose to pitch the flat rate at 72.5% having considered the fact that the annual amount of net stake receipts arising from local bets on non-local races is around \$240 million, falling within the tax band for the first \$11 billion of net stake receipts where the lowest duty rate (i.e. 72.5%) is applicable. The above taxation adjustments should not have material impact on government revenue. Nevertheless, the proposed relief measure, as referred to paragraph 20 above, may lead to reduction in government revenue. To ensure no revenue loss in the initial period of the new outbound commingling arrangement, a new guarantee for a period of three years will be introduced under the Bill. In effect, during the three-year guarantee period, the annual amount of betting duty receipts arising from local bets placed on non-local races receivable by the Government will be the actual amount computed based on the relevant provision under BDO or the proposed guaranteed amount of \$175 million, whichever is the higher.

25. Hon Abraham SHEK and Hon Christopher CHUNG have asked how the proposed guaranteed amount of \$175 million and the proposed guarantee period of three years are determined. They have queried whether the proposed guarantee will provide adequate safeguard to the Government's duty revenue arising from local bets placed on non-local races for future racing seasons after expiry of the three-year guarantee period.

26. The Administration has stressed that the objective of the proposed guarantee is to ensure that there will be no revenue loss for the Government due to the introduction of a new betting duty structure for local bets on non-local races in the initial period of the new commingling arrangements, rather than maximizing government revenue from the racing business in the long run. The proposed guaranteed amount of \$175 million per year is the average of the preceding three years' betting duty receipts (i.e. from 2009-2010 to 2011-2012 racing seasons) arising from local bets on non-local races simulcast by HKJC. With reference to the duration of the guarantee previously provided by HKJC in the last betting duty reform in 2006, the Government and HKJC have agreed in principle that for

the present reform, a guarantee lasting for three years should be reasonable for the purpose of protecting government revenue during the transitional period. It has been pointed out that the annual amount of net stake receipts generated from local bets on non-local races is around \$240 million on average in the last three racing seasons, representing only 1.8% of the average annual total net stake receipts generated from horse race betting in the same period of time.

27. Hon Christopher CHUNG considers it important for the Administration to ensure that there is no loss of revenue to the Government from the racing business in the long run. He suggests that the Administration should consider reviewing, before expiry of the proposed three-year guarantee period, the proposal of charging a flat betting duty rate at 72.5% as well as HKJC's liability to pay a betting duty of no less than \$175 million per year (i.e. the guaranteed amount) for three years after implementation of the new betting duty structure for local bets on non-local races. He has urged the Administration to respond to his suggestion so as to facilitate his consideration of whether to support the proposals contained in the Bill.

28. Hon Abraham SHEK has once made a similar suggestion concerning the conduct of a review before expiry of the proposed three-year guarantee period. Having considered that the implementation of commingling arrangement can eliminate odds differences and arbitrage by illegal bookmakers and thus help combat illegal gambling, he is of the view that the Bill should be passed as soon as possible and it will suffice for the Administration to report on the progress of the implementation of the Bill to the Panel on Home Affairs during the three-year guarantee period.

29. The Administration has undertaken to seriously consider members' views on the need for a review of the new betting duty structure for local bets on non-local races before expiry of the three-year guarantee period. At the request of the Bills Committee, the Administration has agreed that in his speech to be delivered during the resumption of the Second Reading debate on the Bill, SHA will elaborate on the Government's position in this regard. The Bills Committee has also suggested that the Administration should endeavour to provide a written response by the deadline for giving notice for resumption of the Second Reading debate on the Bill (i.e. 17 June 2013) to facilitate members' consideration.

Resumption of Second Reading debate

30. The Bills Committee supports the resumption of the Second Reading debate on the Bill at the Council meeting of 3 July 2013.

Committee stage amendments

31. The Administration and the Bills Committee have not proposed any Committee stage amendment to the Bill.

Consultation with the House Committee

32. The Bills Committee reported its deliberations to the House Committee on 14 June 2013.

Council Business Division 2
Legislative Council Secretariat
27 June 2013

Bills Committee on Betting Duty (Amendment) Bill 2013

Membership list

Chairman Hon Tommy CHEUNG Yu-yan, SBS, JP

Members Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon YIU Si-wing
Hon MA Fung-kwok, SBS, JP
Hon Martin LIAO Cheung-kong, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

(Total : 15 Members)

Clerk Ms Alice LEUNG

Legal Adviser Mr Bonny LOO

Date 8 May 2013

**Bills Committee on
Betting Duty (Amendment) Bill 2013**

List of organizations/individuals which/who have submitted views to the Bills Committee

1. Mr Martin OEI, Political Commentator
2. The Lion Rock Institute
3. 人手比例不符最低工資關注組
4. Asian Racing Federation
5. Hong Kong Gambling Watch
6. The Society for False and Dark
7. The Society for Truth and Light
8. Mr Brett PREBBLE, Jockey
9. Hong Kong Racehorse Owners Association Limited
10. Mr Ricky YIU, Horse Trainer
11. PricewaterhouseCoopers Hong Kong
12. Mr Gary LING
- *13. Betting and Lotteries Commission
- *14. Mr Simon LEE Chao-fu, News Commentator
- *15. International Federation of Horseracing Authorities
- *16. Singapore Turf Club
- *17. The Association of International Accountants - Hong Kong Branch
- *18. New Zealand Thoroughbred Racing

- *19. 一群有怨無路訴的電話投注員工
- *20. Mr CHAN Shek-kwong
- *21. Sky Channel Pty Ltd.
- *22. Haider KIKABHOY
- *23. Mr David BOEHM
- *24. Dr Simon KWOK, BBS, JP
- *25. Mr John SIZE, Horse Trainer
- *26. Mr Timothy WONG Ka-ho, Commentator
- *27. Mr Carlos WU, Deputy Chairman of Association of Hong Kong Racing Journalists
- *28. The Association of Chinese Employees of The Hong Kong Jockey Club

* Organizations/individuals which/who have submitted written views only.