

立法會
Legislative Council

LC Paper No. CB(1)782/12-13

(These minutes have been seen
by the Administration)

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Panel on Financial Affairs

Minutes of meeting

**held on Monday, 7 January 2013 at 10:00 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon Starry LEE Wai-king, JP (Chairman)
Hon CHAN Kin-por, BBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon Kenneth LEUNG
Hon Dennis KWOK
Hon SIN Chung-kai, SBS, JP

Members attending : Hon WONG Kwok-hing, MH
Dr Hon LAM Tai-fai, SBS, JP
Hon WONG Kwok-kin, BBS
Hon TANG Ka-piu
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP

Members absent : Hon Abraham SHEK Lai-him, SBS, JP
Hon Christopher CHEUNG Wah-fung, JP

Public officers attending : Agenda Item IV

Miss AU King-chi, JP
Permanent Secretary for Financial Services and the Treasury (Financial Services)

Miss Emmy WONG
Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) 3

Agenda Items V and VI

Ms Ada CHUNG, JP
Registrar of Companies
Companies Registry

Agenda Item V

Mr Arsene YIU
Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) 6

Mrs Karen HO
Deputy Principal Solicitor (Company Law Reform) 1
Companies Registry

Ms Phyllis MCKENNA
Deputy Principal Solicitor (Company Law Reform) 2
Companies Registry

Agenda Item VI

Mr Patrick HO, JP
Deputy Secretary for Financial Services and the Treasury (Financial Services) 3

Agenda Item VII

Miss Salina YAN, JP
Deputy Secretary for Financial Services and the Treasury (Financial Services) 1

Mr Jackie LIU

Principal Assistant Secretary for Financial Services
and the Treasury (Financial Services) 5

Mr Eddie YUE, JP
Deputy Chief Executive
Hong Kong Monetary Authority

Miss Ying-ying CHENG
Senior Manager (External) 2B
Hong Kong Monetary Authority

Attendance by invitation : Agenda item IV

Mandatory Provident Fund Schemes Authority

Ms Anna WU, GBS, JP
Chairman

Mrs Diana CHAN, JP
Managing Director

Mr Darren McSHANE
Executive Director (Regulation and Policy)

Clerk in attendance: Ms Connie SZETO
Chief Council Secretary (1)4

Staff in attendance : Mr KAU Kin-wah (Agenda item V)
Senior Assistant Legal Adviser 3

Miss Winnie LO (Agenda item V)
Assistant Legal Adviser 7

Ms Angel SHEK
Senior Council Secretary (1)4

Ms Sharon CHAN
Legislative Assistant (1)4

I Confirmation of minutes of meetings and matters arising

(LC Paper No. CB(1)359/12-13 — Minutes of the meeting on 5 November 2012)

The minutes of the meeting held on 5 November 2012 were confirmed.

II Information papers issued since the last meeting

(LC Paper No. CB(1)274/12-13(01) — Letter dated 5 December 2012 from Hon TANG Ka-piu proposing discussion on a study of administrative costs in the Hong Kong Mandatory Provident Fund system (Chinese version only)

LC Paper No. CB(1)310/12-13 — The Quarterly Report of the Securities and Futures Commission (July to September 2012)

LC Paper No. CB(1)362/12-13(01) — Administration's information paper on the proposal of Hong Kong Exchanges and Clearing Limited to introduce after-hours futures trading)

2. Members noted the information papers issued since the last regular meeting held on 3 December 2012.

3. The Chairman suggested and members agreed that matters relating to the proposal of Hong Kong Exchanges and Clearing Limited ("HKEx") to introduce after-hours futures trading ("the AHFT proposal") would be dealt with under agenda item III of the meeting.

III Date of next meeting and items for discussion

(LC Paper No. CB(1)358/12-13(01) — List of outstanding items for discussion

LC Paper No. CB(1)329/12-13(01) — Letter dated 11 December 2012 from Hon Kenneth LEUNG proposing discussion on policy issues relating to the regulation of financial advisers arising from the acquisition of the share capital of London Metal Exchange Holdings Limited by Hong Kong Exchanges and Clearing Limited (English version only)

LC Paper No. CB(1)358/12-13(02) — List of follow-up actions)

Items proposed by the Administration for discussion at the regular meeting in February 2013

4. Members agreed to discuss the following items proposed by the Administration at the next regular meeting scheduled for 4 February 2013:

- (a) Briefing on the work of Hong Kong Monetary Authority ("HKMA");
- (b) Budget of Securities and Futures Commission ("SFC") for the financial year of 2013 – 2014; and
- (c) Tax information exchange arrangements.

Policy issues arising from the acquisition of the share capital of London Metal Exchange Holdings Limited by HKEx

5. The Chairman informed members that Mr Kenneth LEUNG had written to her on 11 December 2012 requesting the Panel to discuss policy issues arising from the acquisition of the share capital of London Metal Exchange Holdings Limited ("LME") by HKEx. The letter was circulated to members on 17 December 2012.

6. Mr Kenneth LEUNG said that HKEx announced the placement of new shares in November 2012 ("the Placement") to fund the acquisition of the share capital of LME ("the Acquisition"), and the appointment of agents and financial adviser for the Placement. He said that his office had received submissions/enquiries from practitioners in the financial industry and the media, including banking institutions and securities firms, expressing concerns about certain issues arising from HKEx's appointment of financial adviser. Mr LEUNG considered that the Panel should discuss issues relating to the licensing and regulation of financial advisers in carrying out regulated activities under the Securities and Futures Ordinance (Cap. 571), exemptions granted by SFC, if any, and enforcement actions taken against unlicensed parties. As representatives from SFC would attend the regular meeting on 4 February 2013 for the item on SFC's budget, he suggested that an item be added to the agenda for the discussion of policy issues relating to the licensing and regulation of financial advisers.

7. The Chairman said that it was the usual practice of a LegCo Panel to decide on the discussion items for meetings by making reference to the Panel's "List of outstanding items for discussion" and having regard to priorities. The Chairman advised that it would be inappropriate for the Panel to deliberate the case of appointment of a financial adviser by HKEx in the Acquisition as it was an individual case. However, members might consider discussing relevant policy issues arising from the case, if necessary. She suggested that the Panel might invite the Administration/SFC to give a written response to the issues raised by Mr Kenneth LEUNG first before deciding how to follow up the matter, including whether to schedule the subject for discussion at a Panel meeting.

8. Mr Kenneth LEUNG emphasized the importance to discuss the policy issues relating to HKEx's appointment of a financial adviser as the matter concerned the well-being of the financial industry and was not just a standalone case. He considered it appropriate to allocate about 20 minutes for the discussion of policy issues relating to HKEx's appointment of a financial adviser in a focused manner. Mr SIN Chung-kai supported the suggestion. Mrs Regina IP expressed concern about the possible impact of the Acquisition on the Hong Kong Mercantile Exchange established in Hong Kong. She suggested that the Panel should discuss the respective roles of the two commodity exchanges, and the strategies and plans of the Administration in promoting the development of the two exchanges in the financial landscape of Hong Kong.

9. Taking into account members' views, the Chairman suggested that the Administration be requested to provide written information on the above issues raised by Mr Kenneth LEUNG and Mrs Regina IP and prepare for answering

members' questions on those issues under the agenda item "Budget of SFC for the financial year of 2013 – 2014". The discussion time for the item would be extended accordingly. Members agreed.

Proposal of HKEx to introduce AHFT

10. The Chairman drew members' attention that the Administration had provided an information paper on the AHFT proposal, which was issued to members on 2 January 2013 (LC Paper No. CB(1)362/12-13(01)). According to the paper, HKEx planned to submit the trading and clearing rule amendments in relation to AHFT for SFC's approval in January 2013 and to commence AHFT in March 2013. The Chairman referred to the letter from Mr WONG Kwok-hing (a non-panel member) tabled at the meeting conveying the securities industry's concerns about the AHFT proposal and requesting the Panel to meet deputations, the Administration and HKEx to discuss the matter.

11. Mr WONG Kwok-hing relayed the concerns of market practitioners about the potential risks of the AHFT proposal to investors. He emphasized the importance to safeguard Hong Kong's financial safety and drew members' attention to the motion on "Supporting the development of the securities industry" moved by Mr Christopher CHEUNG and amended by other Members and passed at the Legislative Council ("LegCo") meeting of 5 December 2012. Mr WONG urged Panel members to consider his suggestion of holding a meeting to hear deputations' views.

(Post-meeting note: The letter dated 3 January 2013 from Mr WONG Kwok-hing (Chinese version only) was subsequently issued to members vide LC Paper No. CB(1)385/12-13(01) on 8 January 2013.)

12. The Chairman said that the Panel might consider the options of inviting submissions from interested parties for members' consideration, extending the regular meeting on 4 February 2013 to include discussion on the AHFT proposal and meet with deputations, or holding a special meeting for the purpose. As there would be three discussion items for the regular meeting in February, Mr James TIEN considered it more practicable to arrange a special meeting to discuss the AHFT proposal if the Panel decided to meet with deputations on the subject.

13. Mr WONG Ting-kwong said that members were well aware of the position of the securities industry on the AHFT proposal, in particular the industry's views had been clearly conveyed through some LegCo Members during the motion debate on 5 December 2012. He questioned the need for the Panel to meet with deputations and considered it more important for the Panel

to examine the response from the Administration, SFC and HKEx in addressing the industry's concerns before implementing AHFT. Mr Jeffrey LAM shared a similar view. He pointed out that HKEx had already conducted a public consultation on the AHFT proposal in 2011 and members of the securities industry had either responded to the consultation or made submissions to the Panel. Unless there were fresh views from the industry, he considered it unnecessary for the Panel to hold a meeting for receiving deputations' views. Mr CHAN Kam-lam concurred that it might not be necessary to hold a special meeting to meet with deputations. However, if the Panel decided it otherwise, he considered that the special meeting should be arranged as soon as possible given that AHFT would be implemented soon in March 2013. Mr CHAN pointed out the need to ensure smooth implementation of any arrangement in the financial industry so as to provide certainty to the market, reinforce investors' confidence, and maintain Hong Kong's status as an international financial centre.

14. Mr Ronny TONG, Mr Kenneth LEUNG, and Mr SIN Chung-kai supported holding a special meeting to meet with deputations on the AHFT proposal. Mr TONG pointed out that it was incumbent upon LegCo to hear public views for effective monitoring of Government policies. He considered it necessary to gauge the views of the public at large, including investors, and not just the industry players. Mr LEUNG agreed that the Panel could take the opportunity to receive views from non-stakeholders and professionals when meeting with deputations. He opined that participation of deputations at the meeting would ensure the transparency of discussion.

15. In concluding the discussion, the Chairman suggested that the special meeting scheduled for 28 January 2013 at 4:30 pm for the briefing on the Chief Executive's Policy Address 2013 on financial services and treasury initiatives would be extended to end at 6:30 pm to include a discussion item on the AHFT proposal for meeting with deputations, the Administration, SFC and HKEx. Members agreed.

IV Briefing on the results of Mandatory Provident Fund Schemes Authority's consultancy study on trustees' cost and reform directions to lower MPF fees

(LC Paper No. CB(1)358/12-13(03) — Administration's paper on "Results of the MPFA's Consultancy Study on Trustees' Administration Cost and Reform Directions to Lower MPF Fees Proposed by the MPFA"

LC Paper No. CB(1)358/12-13(09)

Paper on "Results of the MPFA's Consultancy Study on Trustees' Administration Cost and Reform Directions to Lower MPF Fees Proposed by the MPFA" provided by the Mandatory Provident Fund Schemes Authority

LC Paper No. IN07/12-13

— Information note on "Overview of the Mandatory Provident Fund System" prepared by the Legislative Council Secretariat)

Briefing by the Administration and the Mandatory Provident Fund Schemes Authority

16. The Permanent Secretary for Financial Services and the Treasury (Financial Services) ("PS(FS)") said that the Mandatory Provident Fund System ("MPF System") was one of the pillars of the retirement protection system in Hong Kong that complemented voluntary private savings and the social security system. Taking note of public sentiments about the level of MPF fees, the Administration was determined to address the issue and consider more fundamental changes to the MPF System with a view to achieving early and substantial reduction in MPF fees. PS(FS) said that the results of the consultancy study commissioned by MPFA on trustees' administration cost ("Cost Study"), which was released in November 2012, had indicated that there was room for further fee reduction. The Administration would make reference to the Cost Study as well as MPFA's proposals to consider the reform directions and measures. Where appropriate and necessary, the Administration would consider legislative amendments to empower MPFA to perform its statutory functions more effectively. The Administration would like to gauge Members' views before formulating the reform proposals for further consultation with the industry, the community and LegCo.

17. With the aid of a powerpoint presentation, the Managing Director of MPFA ("MD/MPFA") briefed members on the background and findings of the Cost Study conducted by Ernst & Young Advisory Services Limited. She said that since the implementation of the MPF System, the MPFA had launched a number of measures to refine the System and streamline its operation, with the aim of reducing costs and driving down fees. The weighted average fund expense ratio ("FER") of the System was 1.74% at present. According to the

Cost Study, the administration cost of trustees took up 0.75% of the average FER. MD/MPFA then briefed members on the administration cost drivers, the strategic responses recommended by the consultant and the short-term measures adopted by MPFA in response to the Cost Study to further drive down MPF fees. She explained that according to the consultant, implementation of the initiatives would enable reduction in administration costs by 0.35% of assets under management ("AUM") per annum. Should the MPF System continue to grow at its historical rate and costs increase at a rate of 3% to 4% per annum, the FER was expected to be reduced by 25 basis points by 2018. In other words, the FER could be reduced by a maximum of 60 basis points in total in about five years. MD/MPFA emphasized that further fee reductions would require the concerted efforts of four parties, i.e. Government, MPFA, trustees and sponsors, scheme members and employers. As regards the long-term approaches to bring fundamental improvements to the MPF System, the MPFA had put forth four proposals for consideration by the Government: (a) capping the fees of MPF funds; (b) mandating the provision of low-fee funds in MPF schemes; (c) providing a basic, low-fee, default fund arrangement; and/or (d) introducing a not-for-profit operator to operate a simple and low-fee MPF scheme.

(Post-meeting note: The powerpoint presentation materials (LC Paper No. CB(1)382/12-13(01)) were issued to members vide Lotus Notes e-mail on 7 January 2013.)

Discussion

Reform directions and implementation timetable

18. Mr WONG Kwok-hing expressed strong support on MPFA's reform directions. He observed that the MPF System was riddled with problems such as a high percentage of manual and paper-based administration in processing a large number of MPF accounts and transactions, and high fees charged by investment managers. As revealed by the Cost Study, the administration cost accounted for as much as a weighted average of 0.75% of AUM. On the other hand, the benefits from economies of scale were low and there were limited incentives for MPF scheme providers to lower fees. He considered it necessary to reform the MPF System fundamentally to resolve the problems and enquired about the timetable for implementing MPFA's four reform proposals.

19. Mr WONG Ting-kwong declared that he had been a non-executive director of the management board of MPFA, and was currently the Chairman of the MPF Schemes Advisory Committee. He said that the community generally took a positive view towards the reform directions proposed by MPFA.

20. Mr James TO and Mr Albert HO expressed support on the proposal of capping the fees of MPF funds as the MPF System was mandatory. Mr James TIEN also considered it practicable to cap the fees of MPF funds. Mr TANG Ka-piu sought the Administration's view on the four reform proposals put forth by MPFA.

21. PS(FS) said that some of the reform directions proposed by MPFA were pursuable under the existing legislative framework while others might require further study regarding their feasibility and/or require necessary legislative amendments for implementation. For instance, the suggestion of capping the fees of MPF funds would require thorough study of whether it should be applied to all constituent funds or only some of them in a MPF scheme, and legislative amendments were necessary to empower MPFA to implement the suggestion. In view that currently as many as 14% of employees did not specify their investment options in the respective MPF schemes, the Administration took a positive view towards MPFA's proposal to introduce a basic, low-fee, default fund arrangement in each scheme under the MPF System. The Administration would join hands with MPFA in pursuing these suggestions and consulting relevant parties.

22. On the implementation timetable of the reform proposals put forth by MPFA, PS(FS) said that subject to further study and public consultation, the Administration aimed to take forward the requisite legislative amendments, if confirmed necessary, within the current term of LegCo. The Chairman of MPFA ("C/MPFA") said that, taking into account the fact that the MPF System had been operating for 12 years and with the commencement of the semi-portability under the Employee Choice Arrangement beginning in November 2012, it was opportune to review the operation and to further enhance the MPF System. She observed that the Administration was willing to consider the reform directions proposed by MPFA. Some of the suggestions might require legislative amendments to confer on MPFA the necessary powers, such as to mandate the provision of low-fee funds and/or default fund arrangement in MPF schemes. Moreover, it would take time to consider the proposal of introducing a not-for-profit operator to operate a simple and low-fee MPF scheme with a view to enhancing pricing competition among all MPF trustees. C/MPFA stressed that MPFA would work with the Administration in formulating reform measures and aim at taking forward fundamental changes to the MPF System within the five-year term of the current Government. Mr WONG Kwok-hing urged the

Administration and MPFA to make their best efforts in taking forward the legislative amendments for implementing the four reform proposals within the five-year term of the incumbent Chief Executive.

Merging of less efficient schemes/funds and provision of low-fee funds

23. Mr Ronny TONG noted that currently there were 464 MPF funds operating in the market, and the existence of a large number of funds was among the reasons contributing to the high MPF fees. While agreeing that merging less efficient schemes/funds could help reduce MPF fees, Mr TONG was concerned how the substantial number of MPF funds at present could be brought down to a reasonable level, say about 100 funds, if there was no mandatory requirement for the trustees to do so. Mr SIN Chung-kai pointed out that the small amount of assets under management in each MPF fund, i.e. an average of about \$0.9 billion for each scheme vis-à-vis an aggregate net asset value of about \$400 billion of the 464 MPF schemes, had limited the benefits of economies of scale and thus driven up fees.

24. PS(FS) concurred that the high fees of the MPF System were partly attributed to the vast number of choices of MPF funds. The community would need to deliberate on issues such as whether the MPF System should continue to evolve as a flexible, full service system offering a wide range of retail investment products at a higher cost, or consolidate as a retirement investment platform with fewer, more basic and simpler choices of funds at a lower cost, for scheme members. MD/MPFA said that MPFA had been urging trustees to merge small-scale or less efficient MPF schemes/funds. At the same time, MPFA would not approve new schemes/funds if they were similar in terms of investment strategies and fees level to existing schemes/funds provided by the same provider. As a result of these efforts, some 90 MPF funds and 20 schemes had been merged with other existing funds/schemes over the years since inception of the MPF System. Driven by commercial considerations, trustees would normally merge scheme/funds that were not cost effective. MPFA would keep in view the industry's efforts in merging MPF schemes/funds. PS(FS) added that the Administration would consider the need to impose statutory requirements on trustees for merging of MPF schemes/funds should administrative measures taken by MPFA fail to achieve satisfactory results in this respect.

25. Mr Kenneth LEUNG noted that one of the strategic responses proposed by the consultant was to clarify the objectives of the MPF System in order to guide future reform. He opined that if the role of the MPF System was to secure retirement protection for the workforce, high-risk funds (which usually incurred a higher investment management fee compared to low-risk funds) should not be provided in the MPF System. As such, he enquired whether the

Administration/MPFA would consider measures to phase out the high-risk funds in the long run.

26. Mr Ronny TONG noted that some scheme members, particularly the younger members, were willing to take on more risk in MPF investment hoping for a higher return and hence, there might be a need for high-risk funds in the market. Mr CHAN Kin-por observed that certain high-risk investment tools, such as derivatives, were already prohibited in the MPF System. He opined that it would be inappropriate to prohibit all high-risk MPF products given the need to offer choices with higher potential in generating better investment returns in the long run for scheme members, in particular after taking into account the inflation factor.

27. C/MPFA said that the reform direction proposed by MPFA was to mandate the provision, in addition to the existing scheme/fund options, of low-fee funds in MPF schemes and/or provide basic, low-fee, default funds with a view to providing more choices for scheme members. PS(FS) added that a number of factors would need to be considered in relation to the provision of default or low-fee funds, including the types of low-fee funds to be provided, the benchmark for standardizing the provision if necessary, and the age of scheme members.

28. Mr James TO observed that relatively low-risk funds, like the Tracker Fund of Hong Kong ("TraHK"), had achieved good performance as compared to many blue-chip equity-linked funds in many MPF schemes. There was a suggestion in the community to mandate trustees to provide such lower risk funds, which might help improve the MPF return and lower its fees. Mr TO sought the Administration's views on the feasibility of the suggestion, in particular the limitation, if any, in the issue size of TraHK. Mr CHAN Kin-por pointed out that about 60% of MPF investment at present was placed in equity-linked funds but, as observed, their performance was unsatisfactory compared to index-linked funds in 2012. As the fees of index-linked funds were lower in general, he considered it important to step up promotion and public education on the benefits of index-linked funds in driving down fees notwithstanding their associated risks.

29. MD/MPFA said that currently, subject to approval by MPFA, MPF trustees could determine the components in the investment portfolio of their MPF funds, which could include exchange-traded funds like TraHK and index-linked funds. Due to lower profit margin, the number of such funds in the MPF System was small. Hence, MPFA proposed to mandate the provision of low-fee funds in the MPF schemes as one of the reform directions. Nevertheless, to realize the benefit of this proposal, the trustees needed to step up their efforts in promoting low-fee funds to scheme members. It also

remained a decision of scheme members whether to choose low-fee funds for their MPF investment.

30. Mr Albert HO cautioned about the potential risks and viability of low-fee funds for MPF investment and enquired about the Government's role to enhance protection for investment in such funds. PS(FS) said that it was essential that scheme members should understand the risks associated with the MPF funds before making any investment decision. MPFA would strengthen its efforts in educating the public on MPF investment.

31. Mr James TIEN expressed concern about the practicability of providing a basic, low-fee default fund in the MPF System and the returns from such funds, which might not be better than placing fixed deposits at banks. The Chairman also relayed the suggestion from the community that scheme members, in particular those approaching retirement or not aspiring for a high return from MPF investments, should be given the choice to put their MPF accrued benefits on bank deposits as this would not involve any management fees. PS(FS) pointed out that low-fee funds could cater for the needs for longer-term investment. Providing a low-fee default fund arrangement would address the current situation that some 14% of employees did not specify their investment options in the respective MPF schemes. C/MPFA said that some other jurisdictions had incorporated the low-fee default fund arrangement in their pension schemes. It was observed that the fees of some MPF conservative funds were low because the trustees concerned ran such funds at a deficit and subsidized the cost via income from other MPF funds under their management. Regarding the suggestion of allowing scheme members to put their MPF accrued benefits on bank deposits instead of investing in MPF funds, C/MPFA said that the issue had been studied and discussed before introducing the MPF System.

Introducing a not-for-profit MPF scheme operator

32. Mr SIN Chung-kai and Mr Kenneth LEUNG queried the low effectiveness of the consultant's initiatives in reducing MPF fees as even when the benefits were fully realized, the administration costs of the MPF System could only be reduced by 0.35% of AUM per annum, and FER could only be reduced by a maximum of 60 basis points in five-years' time. Referring to MPFA's proposal to introduce a not-for-profit operator to operate a simple and low-fee MPF scheme, Mr LEUNG enquired whether the Administration/MPFA would consider reducing the number of trustees to ultimately only one not-for-profit operator, which he considered would be very effective in driving down administration costs. Mr James TO said that Members belonging to the Democratic Party supported MPFA's proposal to set up a public trustee to operate MPF schemes.

33. Referring to the five pillars of old age protection envisioned by the World Bank Group, C/MPFA explained that the MPF System in Hong Kong was designed to form the pillar of a mandatory, privately managed, fully funded contribution scheme. Under this premise, one of the MPFA's reform proposals was to introduce, in addition to the existing 19 trustees, a not-for-profit operator in the MPF System which would exercise greater social responsibility in operating MPF scheme at low fees so as to increase competition to drive other trustees to lower their fees. The not-for-profit operator could be a public organization, a social enterprise or an operator from the relevant industries.

34. Mr WONG Ting-kwong remarked that the community generally welcomed the proposal of introducing a public trustee. However, he doubted the capability of a social enterprise or the industry to take up this role, and the complexity of the arrangements to be put in place if these parties failed to manage the not-for-profit scheme properly or closed down operation. Mr James TIEN shared the concern and queried the practicability of identifying suitable social enterprises or industry players which were willing to operate not-for-profit MPF schemes. He was worried that while some voluntary organizations might claim their operations to be non-profit-making, they did not exercise fiduciary duty in management and control of their expenditures.

35. Referring to the ongoing investment of the Exchange Fund ("EF") undertaken by HKMA, Mr Albert HO sought the views of the Administration/MPFA on the suggestions for HKMA to take up the role of a public trustee in the MPF System, or the setting up of a public trustee which mirrored the present investment strategies of EF. Mr James TIEN considered that the Administration/MPFA should explore the feasibility for HKMA to act as a public trustee and be responsible for the investment of all the MPF contributions in view of HKMA's satisfactory performance in the investment of EF. The Chairman shared the suggestion that HKMA was capable of taking up the role of a public trustee to provide EF-linked MPF products. Mr TANG Ka-piu urged the Administration/MPFA to study the suggestion in detail.

36. PS(FS) said that HKMA was responsible for maintaining currency stability within the framework of the Linked Exchange Rate System and the integrity of the financial system of Hong Kong. Such change to the existing arrangement could undermine HKMA in discharging its statutory functions. PS(FS) opined that the industry could make reference to HKMA's investment strategies and EF's investment portfolio in devising similar MPF products.

37. The Chairman remarked that there should be room for re-defining HKMA's functions and role as these were conferred on HKMA by the

Government in consultation with the LegCo and the public. She sought the view of C/MPFA whether MPFA would study the option of HKMA as a public trustee. C/MPFA pointed out that not-for-profit operators of MPF schemes could take different forms. For instance, the pension systems of some other jurisdictions were run by not-for-profit operators such as trade unions. As for Hong Kong, the principle of introducing a not-for-profit MPF operator would require further study and a consensus from the community on the principle would need to be reached before discussing further details including identifying suitable operators. She believed that the Government would play a proactive role in taking forward the matter.

Arrangement for offsetting severance payment or long service payment

38. Mr TANG Ka-piu enquired about the Administration's plan to abolish the current arrangement whereby employers could use the accrued benefits of their contributions to offset the Severance Payment or Long Service Payment ("SP/LSP offsetting arrangement") payable to their employees. He pointed out that the matter concerned issues that straddled different bureaux and urged the Administration to consult stakeholders on the matter carefully, in particular to alleviate the employers' worry about the impact of abolishing the SP/LSP offsetting arrangement on their operations and costs. Mr SIN Chung-kai took the view that substantial reduction in the MPF fees could only be achieved in the long run by implementing a full portability arrangement for the MPF Scheme to enable employees to choose trustees on their own as the arrangement would significantly reduce the number of accounts held by scheme members and managed by trustees/employers. As implementation of the full portability arrangement would hinge on abolition of the SP/LSP offsetting arrangement, Mr SIN urged the Administration to commence consultation on the matter as early as possible within the current legislative term. Mr James TO shared a similar view.

39. Mr WONG Ting-kwong expressed grave concern about the potential financial burden on employers, especially the small and medium-sized enterprises, if the SP/LSP offsetting arrangement was abolished. He stressed the need for the Administration to undertake thorough consultation with the relevant stakeholders.

40. PS(FS) said that the Administration was aware that the SP/LSP offsetting arrangement under the existing MPF legislation was a subject of great concern to both employers and employees, and there were diverse views among different stakeholders on the matter. Any change to the existing arrangement would require careful consideration of all relevant factors, including retirement protection for the entire working population and costs on the business community. At this stage, the Administration/MPFA would make

preparations in parallel to facilitate implementation of full portability arrangement in the long run, including studying the feasibility of setting up an electronic central database and urging scheme members to consolidate their MPF accounts, to facilitate tracking of members' accrued benefits for offsetting purpose, and providing default fund arrangement etc.

41. C/MPFA affirmed members that it was the target of MPFA to implement the full portability arrangement for the MPF System. She said that it was among the policy initiatives in CE's election manifesto to adopt measures to progressively reduce the proportion of accrued benefits attributed to employers' contribution in the MPF account that could be applied by the employers to offset SP/LSP. She noted that the issue of SP/LSP offsetting arrangement needed to be examined before the full portability arrangement for employees could be implemented. There would be additional administrative burden in the implementation of full portability arrangement if the SP/LSP offsetting arrangement was not abolished. PS(FS) said that as the SP/LSP offsetting arrangement involved issues such as employment protection, employer-employee relations and employers' operations and costs, it would require joint efforts of the relevant bureaux to further study the matter.

Streamlining MPF administration process

42. In response to Mr TANG Ka-piu's enquiry, PS(FS) said that the efforts to reduce MPF cost would call for behavioural change of the concerned parties. For instance, as some 65% of the 30 million MPF transactions each year were processed by manual and paper-based administration at present, employers would be encouraged to change their way of managing MPF accounts towards a wider adoption of automated procedures. It was also necessary to urge scheme members to consolidate their MPF accounts with a view to reducing the number of accounts per member and lowering the number of transactions and administration costs. The Administration and MPFA were also studying the feasibility of setting up an electronic central database to facilitate the tracking of MPF contributions by employers/employees. All these measures would facilitate the implementation of full portability arrangement in future.

43. In response to the enquiry of Mr WONG Ting-kwong, MD/MPFA explained that taking into account the need for most of the MPF scheme members to retain at least two MPF accounts (i.e. the employee's personal account and the account for accruing employer's contributions) and the existing SP/LSP offsetting arrangement, the ongoing effort of MPFA was to urge scheme members to consolidate their accounts to not more than three.

44. Mr CHAN Kin-por referred to page 3 of MPFA's powerpoint presentation and pointed out that as the Hong Kong MPF System had only been

in place for 12 years, which was still a relatively young system, it was understandable that there was room for improvement. As such, it would not be appropriate and fair to compare the administration cost of the MPF System with that of the pension systems of other countries (e.g. Australia, Chile, the United Kingdom and Singapore) which had been in operation for some 20 to 40 years. He envisaged that in the long run, the fees of the MPF System would be driven down along with experience and streamlined operations. In this connection, Mr CHAN expressed support to the short-term improvement measure launched by MPFA to facilitate trustees in further automating and streamlining their administration processes. He suggested that the Administration/MPFA should consider providing incentives to employers and self-employed persons in reducing manual and paper-based MPF administration at their end. MD/MPFA took note of the suggestion.

Way forward

45. Concluding the discussion, the Chairman requested the Administration/MPFA to report the progress of the reform proposals. She said that members would continue to pursue the matter at future Panel meetings and other forums. She drew members' attention to the upcoming motion debate on "Comprehensively reviewing the Mandatory Provident Fund Scheme" to be held at the Council meeting of 9 January 2013.

V Subsidiary legislation for implementation of the new Companies Ordinance

(LC Paper No. CB(1)358/12-13(04) — Administration's paper on "Subsidiary Legislation for Implementation of the New Companies Ordinance"

LC Paper No. CB(1)358/12-13(05) — Background brief on subsidiary legislation for implementation of the new Companies Ordinance prepared by the Legislative Council Secretariat)

Briefing by the Administration

46. At the invitation of the Chairman, the Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)6 ("PAS(FS)6") briefed members on the background of the subsidiary legislation for the implementation of the new Companies Ordinance ("CO"). He said that the Companies Bill ("CB") was passed on 12 July 2012 and gazetted as the new CO on 10 August 2012. The new CO contained provisions which empowered the Financial Secretary ("FS") and the Chief Justice ("CJ") to make subsidiary legislation on various administrative, procedural and technical matters. Such subsidiary legislation needed to be enacted before the new CO could be brought into operation. To prepare for the commencement of the new CO, the Administration would also need to incorporate new consequential amendments into Schedules 9 and 10 to the new CO, as well as amend the list of compoundable offences in Schedule 7 to the new CO. These amendments would be effected by way of publication of notices in the gazette later in 2013. It was the Administration's target to bring the new CO into operation in the first quarter of 2014.

47. On the arrangement for introducing the 13 pieces of subsidiary legislation to be made under the new CO to the Legislative Council ("LegCo"), PAS(FS)6 referred to the information on "Subsidiary legislation to be made under the new Companies Ordinance – Proposed tabling arrangement" tabled at the meeting and explained that it was the Administration's plan to table at LegCo the 12 subsidiary legislation which were subject to negative vetting procedure of LegCo in three batches on 6 February, 27 March and 22 May 2013. As regards the Companies (Unfair Prejudice Petitions) Proceedings Rules to be made by the CJ which was subject to positive vetting of LegCo, the Administration's plan was to introduce it when ready. To enable the scrutiny work of the subsidiary legislation to be carried out in a more effective manner, the Administration was of the view that LegCo might consider setting up one single subcommittee to study the 13 pieces of subsidiary legislation.

(Post-meeting note: The paper entitled "Subsidiary legislation to be made under the new Companies Ordinance – Proposed tabling arrangement" was subsequently issued to members vide LC Paper No. CB(1)385/12-13(02) on 8 January 2013.)

48. The Registrar of Companies, the Deputy Principal Solicitor (Company Law Reform)1 and the Deputy Principal Solicitor (Company Law Reform)2 briefed members on the key proposals in each piece of the subsidiary legislation as set out in the Administration's paper (LC Paper No. CB(1)358/12-13(04)). The 13 pieces of subsidiary legislation could be classified in four categories as follows –

On company names

- (a) Companies (Words and Expressions in Company Names) Order;
- (b) Companies (Disclosure of Company Name and Liability Status) Regulation;

On company records

- (c) Company Records (Inspection and Provision of Copies) Regulation;
- (d) Companies (Residential Addresses and Identification Numbers) Regulation;

On accounts and audit

- (e) Companies (Accounting Standards (Prescribed Body)) Regulation;
- (f) Companies (Disclosure of Information about Benefits of Directors) Regulation;
- (g) Companies (Directors' Report) Regulation;
- (h) Companies (Summary Financial Reports) Regulation;
- (i) Companies (Revision of Financial Statements and Reports) Regulation;

On others matters

- (j) Companies (Model Articles) Notice;
- (k) Companies (Non-Hong Kong Companies) Regulation;
- (l) Companies (Fees) Regulation; and
- (m) Companies (Unfair Prejudice Petitions) Proceedings Rules.

Discussion

Companies (Revision of Financial Statements and Reports) Regulation

49. Mr Kenneth LEUNG relayed the concerns of the accounting industry that under the current proposal, matters concerning an auditor's liability in respect of information provided in the audit report in relation to the revised financial statements of a company would be prescribed in the subsidiary legislation, i.e. Companies (Revision of Financial Statements and Reports) Regulation. He considered that as the matters involved offences of auditor, it would be appropriate to provide them in Section 408 of the new CO (i.e. clause 399 of CB) which provided for the auditor's liability for the original documents of the audit report. Mr LEUNG further suggested that the Administration should also take the opportunity to improve the drafting of Section 408.

50. PAS(FS)6 explained that the new CO had provided for the powers of FS to make subsidiary legislation on various matters, including relevant offences. As the detailed requirements and arrangements concerning the revised financial statements would be prescribed in the proposed "Companies (Revision of Financial Statements and Reports) Regulation", it followed that matters relating to the auditor's liability for the revised financial statements should also be incorporated in the same subsidiary legislation. As regards Section 408 of the new CO, the Administration was aware that there were views that there was room for improvement in the drafting. Given that Section 408 had been incorporated into the new CO with majority support of LegCo Members and that CB had already been passed by LegCo, and the Administration's plan was to commence the new CO in early 2014; the Administration would continue its efforts to gauge industry's views through the Hong Kong Institute of Certified Professional Accountants ("HKICPA") on Section 408.

Arrangement for tabling and scrutiny of the subsidiary legislation

51. On the arrangement for introducing the subsidiary legislation to LegCo, Mr SIN Chung-kai said that one or more subcommittees might be formed to study the subsidiary legislation under the new CO. He considered that in drawing up the timetable for tabling the subsidiary legislation, the Administration should be mindful of the need to allow sufficient time for the prospective subcommittee(s) to scrutinize the subsidiary legislation.

52. At the invitation of the Chairman, the Assistant Legal Adviser 7 ("ALA7") explained that under the negative vetting procedure, there would be 28 days for Members to scrutinize a subsidiary legislation after its tabling at the Council. The scrutiny period could be extended for 21 days by a resolution passed by the Council and a total of 49 days would then be available. The scrutiny period would cover the time for the relevant subcommittee to examine the subsidiary legislation and consider amendments, if any, and to prepare report on the subcommittee's deliberation to be submitted to the House Committee; and the time needed for other LegCo Members in making amendments to the subsidiary legislation. The time available for the subcommittee to scrutinize the subsidiary legislation would be affected by factors, including when the House Committee decided to form the subcommittee, intervening public holidays during the scrutiny period, and whether there were other important LegCo businesses in the scrutiny period, etc., which would affect meeting arrangement of the subcommittee. In the light of these factors, ALA7 noted from the Administration's proposed tabling arrangement (LC Paper No. CB(1)385/12-13(01)) that the period available for the subcommittee to study the first batch of subsidiary legislation (to be tabled at the Council meeting of 6 February 2013) would be about four weeks

(excluding the Lunar New Year holidays). As regards the second batch (to be tabled at the Council meeting of 27 March 2013), the estimated period would be about three weeks during which the Finance Committee would have a series of special meetings in April to examine the Estimates of Expenditure 2013-14. For the third batch (to be tabled at the Council meeting of 22 May 2013), it was envisaged that there would be about five weeks for studying the subsidiary legislation.

53. The Chairman and Mr WONG Ting-kwong observed that in arranging the tabling of the 12 pieces of subsidiary legislation in three batches, the Administration had considered the need to facilitate Members and ease their work pressure in scrutinizing the subsidiary legislation. The Chairman remarked that while allowing some four weeks and five weeks for the scrutiny of the first and third batches of subsidiary legislation respectively were largely acceptable, the three-week scrutiny period for the second batch of subsidiary legislation might be tight, in particular, as this batch would include the subsidiary legislation relating to revision of company's financial statements on which Mr Kenneth LEUNG and the accounting industry had expressed concerns. As such, the Chairman said that the Administration should review the overall timetable of tabling the subsidiary legislation, with a view to allowing more time for the scrutiny of the second batch, and if possible, providing more time for the scrutiny of the first batch.

54. PAS(FS)6 said that the proposed timetable had been worked out with considerations, including the need to avoid overlap in the scrutiny periods for the three batches of subsidiary legislation in order to facilitate the scrutiny work and the plan to complete the vetting procedure within the 2012-2013 legislative session. To tie in with a relatively shorter scrutiny period for the second batch, and taking into account the Budget meetings in the same period, only three pieces of subsidiary legislation were proposed to be included in the second batch. The Administration considered that a three-week scrutiny period should be sufficient. He said that the proposal of setting up one single subcommittee to study the 13 pieces of subsidiary legislation was raised for Members' consideration so as to facilitate the scrutiny work. PAS(FS)6 added that the Administration could adjust the timing and batching of the second and third batches of subsidiary legislation having taken into account relevant factors.

55. Mr Kenneth LEUNG considered that the suggestion of forming one single subcommittee to study the 13 pieces of subsidiary legislation should take into account whether the same group of Members would be available to participate in the scrutiny work continuously throughout the period from early February to June 2013. Mr SIN Chung-kai re-iterated the need to allow sufficient time for the prospective subcommittee to scrutinize the subsidiary legislation. He considered that it would be for the House Committee to decide

whether one single subcommittee or separate subcommittees should be formed for scrutiny of the three batches of subsidiary legislation having regard that some Members might have interest in some but not all of the 13 pieces of subsidiary legislation.

56. Mr WONG Ting-kwong referred to the experience of the Bills Committee on Companies Bill in scrutinizing the Bill which was far more complex and voluminous in content than the subsidiary legislation. He considered that it should be manageable for one single subcommittee to scrutinize the subsidiary legislation, and pointed out that it was likely that more or less the same group of Members would join the subcommittee to scrutinize the subsidiary legislation. Forming one single subcommittee to scrutinize subsidiary legislation would facilitate Members and enable scrutiny work to be conducted in a more efficient and effective manner. Where necessary, the subcommittee could hold meetings more frequently to complete the scrutiny work. Mr Ronny TONG shared Mr WONG's view and envisaged that the workload of the subcommittee would not be too heavy.

Conclusion

57. Concluding the discussion, the Chairman said that Panel members in general supported the Administration's suggestion of forming a single subcommittee to scrutinize the 13 pieces of subsidiary legislation to be made under the new CO, and would make recommendation on this for consideration of the House Committee.

VI Proposed retention of supernumerary directorate posts to deal with matters concerning companies- and bankruptcy-related legislation

(LC Paper No. CB(1)358/12-13(06) — Administration's paper on "Retention of two Supernumerary Directorate Posts for Implementation of the New Companies Ordinance and Review of the Abscondee Regime under the Bankruptcy Ordinance")

Briefing by the Administration

58. The Deputy Secretary for Financial Services and the Treasury (Financial Services)3 ("DS(FS)3") briefed members on the proposed retention of one supernumerary Administrative Officer Staff Grade C post (designated as Principal Assistant Secretary (Financial Services)6 ("PAS(FS)6")) in the Financial Services Branch of the Financial Services and the Treasury Bureau for a period of 12 months from 1 July 2013 to 30 June 2014 to provide policy support for the implementation of the new CO, the review of the abscondee regime under the Bankruptcy Ordinance (Cap.6) ("BO") and the trust law reform; and one supernumerary Deputy Principal Solicitor post (designated as Deputy Principal Solicitor (Company Law Reform)2 ("DPS(CLR)2")) in the Companies Registry ("CR") for a period of nine months from 1 July 2013 to 31 March 2014 to prepare for and assist in the implementation of the new CO. DS(FS)3 highlighted that the work of the two posts in relation to the new CO would cover three fronts, namely, preparation of the 13 pieces of subsidiary legislation to provide for various administrative, procedural and technical matters, implementation of changes in the relevant forms for use by all companies and review of workflows and procedures, and publicity and engagement with stakeholders including devising a mechanism in CR for responding to public enquiries. Subject to members' views, the Administration planned to seek the recommendation of the Establishment Subcommittee in February 2013 and approval from the Finance Committee in May 2013.

Discussion

59. Mr Kenneth LEUNG enquired about the estimated time to be spent by PAS(FS)6 on the major tasks he had to undertake. DS(FS)3 said that the preparatory work for bringing the new CO into operation would take up more than 50% of the work of PAS(FS)6 whereas the work in relation to the trust law reform exercise and the review of the abscondee regime under the BO was expected to occupy over 30% and less than 20% of the remaining workload respectively.

60. Mr WONG Ting-kwong said that he supported the proposal to retain the two supernumerary directorate posts and emphasized the need to ensure smooth commencement of the new CO to maintain Hong Kong's status as an international financial centre. However, he was concerned that the proposed extension of 12 months for the PAS(FS)6 post and nine months for the DPS(CLR)2 post would not be sufficient to undertake the substantial amount of preparatory work for the commencement of the new CO, including the making of 13 pieces of subsidiary legislation. Having regard to the impacts of the new CO on the business community, Mr WONG anticipated that there would be heavy workload arising from handling public enquiries, particularly from the

small and medium-sized enterprises, nearer the commencement of the new CO. The Chairman and Mr SIN Chung-kai shared a similar concern. The Chairman stressed the importance for the Administration to make preparation for handling enquiries from the business sector and professionals, and to strengthen publicity on the new CO, in order to address the compliance issues. Mr Kenneth LEUNG asked whether the Administration had fallback arrangement if the tasks could not be completed when the two supernumerary posts expired in 2014.

61. DS(FS)3 said that the proposed extension period for the two supernumerary posts was drawn up in a prudent manner, having regard to the estimated timeframe for implementing the new CO in the first quarter of 2014. It was expected that the legislative exercise for the trust law reform would be completed by mid 2014, and the Administration would endeavour to reach a milestone in the review of the abscondee regime under the BO by then by developing policy options to facilitate subsequent public discussion and engagement with stakeholders. The Administration would review the future need for the two supernumerary posts having regard to the progress of the tasks, in particular the review of the abscondee regime, and would seek further extension of the posts through established mechanism when necessary.

62. The Chairman expressed doubts about whether PAS(FS)6 could complete the review of the abscondee regime on schedule given his heavy workload. She urged the Administration to make the best efforts to complete the review under the proposed timeframe.

Conclusion

63. Concluding the discussion, the Chairman said that members generally supported the proposal to retain the two supernumerary directorate posts and submission of the staffing proposal for consideration of the Establishment Subcommittee.

VII The 10th Replenishment of the Asian Development Fund

(LC Paper No. CB(1)358/12-13(07) — Administration's paper on "Asian Development Bank – Hong Kong's Contribution to the 10th Replenishment of the Asian Development Fund"

LC Paper No. CB(1)358/12-13(08) — Background brief on Hong Kong's contribution to the 10th replenishment of the Asian Development Fund prepared by the Legislative Council Secretariat)

Briefing by the Administration

64. The Deputy Secretary for Financial Services and the Treasury (Financial Services)¹ ("DS(FS)1") and the Deputy Chief Executive of the Hong Kong Monetary Authority ("DCE/HKMA") briefed members on the proposed contribution of US\$33.14 million (about HK\$260.18 million) to the 10th replenishment of the Asian Development Fund ("ADF XI") of the Asian Development Bank ("ADB") over a nine-year period from 2013-2014 to 2021-2022. DCE/HKMA said that ADF was typically replenished once every four years and contributions to ADF was voluntary. It was the Administration's proposal to maintain Hong Kong's burden share at 0.57% of the target donor contributions, which was the same ratio adopted in the last four replenishments. As compared with the last contribution for ADF X, Hong Kong's proposed contribution of US\$33.14 million for ADF XI was 26.25% higher. This was the result of the burden sharing of an enlarged size of ADF operations due to an increased demand for ADB's assistance and inflation.

Discussion

Hong Kong's contribution to ADF

65. Mr WONG Ting-kwong considered that Hong Kong had moral obligation to continue its contribution to ADF. He enquired about the target of donor contributions for ADF XI and how Hong Kong's level of contribution was compared to those of other donor members in the Asia and Pacific region. DCE/HKMA said that the target size of funding from donor contributions for ADF XI was US\$5.81 billion, 0.57% of which would be contributed by Hong Kong subject to approval of the funding proposal by FC. In terms of donors' contribution in ADF XI, Hong Kong ranked fifth in the region, after Japan, Australia, Republic of Korea and the Mainland.

66. Mr Kenneth LEUNG said that Members belonging to the Professional Commons supported the funding proposal. He sought clarification on whether the burden sharing ratio of 0.57% for Hong Kong had been agreed after negotiations among donors or was calculated on the basis of a pre-determined formula. DCE/HKMA advised that the burden sharing ratio was calculated based on donor member's per capita Gross National Income ("GNI") and

adjusted for its shareholding in ADB. The Chairman opined that, as the burden sharing ratio for Hong Kong's contribution to ADF had been in place since 1997, the Administration should examine whether there was room for a review.

67. Mr SIN Chung-kai said that Members belonging to the Democratic Party supported the funding proposal. Mr SIN enquired why Singapore's burden sharing ratio of 0.15% was lower than that of 0.57% of Hong Kong even though the two jurisdictions had a similar level of per capita GNI. DCE/HKMA explained that a majority of regional donors (including Japan, Australia, Malaysia, Singapore, Thailand and the Mainland) agreed to either increase or maintain their burden share at the same level as ADF X. That said, most of the non-regional donors, in particular the United States ("US") and some European countries, had decided to contribute less than the amount required to maintain their burden share in ADF X due to fiscal constraints, or expectation for regional donors to take up a greater role in financing ADF. While Singapore's calculated burden share under the burden sharing framework amount to 0.39%, this was still lower than Hong Kong's burden share at 0.57% due to Singapore's smaller size of shareholding in ADB. It was also noted that Singapore increased its burden share for ADF XI compared with the last replenishment. DCE/HKMA re-iterated that individual donor would take into account its domestic circumstances in determining the size of contribution. In this regard, the Chairman noted that in spite of their financial circumstances, US and some European countries still managed to make sizable contributions to ADF XI (e.g. US\$359.6 million and US\$314.6 million contributed by US and the United Kingdom respectively).

Monitoring of ADB operations and ADF programmes

68. Mr Dennis KWOK said that Members belonging to the Civic Party supported the funding proposal. Noting that Hong Kong was represented directly in the Board of Governors of ADB, with the Financial Secretary and the Chief Executive of HKMA serving as one of the Governors and Alternate Governors respectively, Mr SIN Chung-kai and Mr Dennis KWOK enquired about the mechanism for monitoring ADB operations and ensuring effective use of ADF.

69. DCE/HKMA said that there were two levels of monitoring of ADF operations that were undertaken. Firstly, as an ADF donor, Hong Kong participated directly in the ADF replenishment negotiations, the mid-term review meeting that usually took place half-way through the replenishment cycle, and the donors consultation that was held annually on the sidelines of ADB's Annual Meeting to discuss the progress of ADF operations and review the effectiveness of ADF implementation. Secondly, for the day-to-day monitoring of ADF operations, Hong Kong was supported by the Australian

Director in the Board of Directors and maintained close contact with the Australian Director to monitor key discussions at the Board.

70. DS(FS)1 said that there was an Independent Evaluation Department, which reported to ADB's Board of Directors, to assess ADB's operations and the ADF programmes. The results of an assessment completed in 2011 showed that the ADF programmes had largely met the relevant performance targets, albeit with some less positive results in the assistance programmes for one ADF recipient jurisdiction which experienced significant turbulences during the review period. DCE/HKMA added that the performance of ADF programmes in 2001 to 2010 excluding that particular jurisdiction were satisfactory in general, with the average success rate meeting ADB's target of 80%.

71. In response to the enquiry of Mr Dennis KWOK, DCE/HKMA said that day-to-day management responsibilities in relation to ADB operations (including ADF programmes) were delegated by the ADB's Board of Governors to a 12-person Board of Directors. Each of these 12 directors represented one constituency, and Hong Kong was indirectly represented in the Board of Directors by the Australian Director. Hong Kong liaised closely with the Australian Director on ADB-related matters affecting the interests of Hong Kong. As regards why Hong Kong did not have direct representation in ADB's Board of Directors, DCE/HKMA explained that the Board membership was determined largely on the basis of a member's shareholding in ADB. Given its small shareholding and voting power, Hong Kong shared the same constituency with 10 other members and was collectively represented by the Australian Director. This arrangement had been operating effectively over the years.

Conclusion

72. The Chairman concluded that members supported the Administration to submit the funding proposal of Hong Kong's contribution to ADF XI for approval of FC.

VIII Any other business

73. There being no other business, the meeting ended at 12:23 pm.