

立法會
Legislative Council

LC Paper No. CB(1)1403/12-13
(These minutes have been seen
by the Administration)

Ref : CB1/PL/FA/1

Panel on Financial Affairs

**Minutes of special meeting on
Monday, 28 January 2013, at 4:30 pm
in Conference Room 1 of 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 Abraham SHEK Lai-him, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon Kenneth LEUNG
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Hon SIN Chung-kai, SBS, JP
- Members attending** : Hon WONG Kwok-hing, MH
Dr Hon LAM Tai-fai, SBS, JP
Hon Charles Peter MOK
Dr Hon KWOK Ka-ki
Ir Dr Hon LO Wai-kwok, BBS, MH, JP

Members absent : Hon WONG Ting-kwong, SBS, JP
Hon Ronny TONG Ka-wah, SC

Public officers attending : Agenda Item I

Prof K C CHAN, GBS, JP
Secretary for Financial Services and the Treasury

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

Ms Elizabeth TSE, JP
Permanent Secretary for Financial Services and the Treasury (Treasury)

Ms Julia LEUNG, SBS, JP
Under Secretary for Financial Services and the Treasury

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

Mr Eddie CHEUNG
Deputy Secretary for Financial Services and the Treasury (Financial Services) 2

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

Agenda Item II

Mr Jerry CHEUNG
Acting Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) 2

**Attendance by
invitation**

: Agenda Item II

Securities and Futures Commission

Mr Keith LUI
Executive Director, Supervision of Markets

Mr Rico LEUNG
Senior Director, Supervision of Markets

Hong Kong Exchanges and Clearing Limited

Mr Gerald GREINER
Head, Global Clearing

Mr Calvin TAI
Co-head, Equities and FIC Business

Mr Felix WANG
Senior Vice President
Co-deputy Head of Risk Management

Organizations/Individuals

Mr Mofiz CHAN

Mr David WONG
Chairman
Hong Kong Securities & Futures Professionals Association

Mr HUNG Hing-fai

Mr SUNG Wing-yiu
Karl-Thomson Commodities Co Ltd

Mr Mark HUI

Mr Paul HILGERS
Optiver Trading Hong Kong Ltd

Ms Jeanne LEE
Hong Kong Securities Professionals Association

Mr Paul WAN
Dealing Director
Glory Sky Global Markets Ltd

Ms LO Ting-chi
Manager
Fuji Hong Kong Commodities Co Ltd

Mr Freddie KWAN
Sales Director
Shenyin Wanguo Futures (HK) Ltd

Mr CHAN Chi-wai

Mr Alvin CHEUNG
Associate Director
Prudential Brokerage Ltd

Mr Louis MAK
Chief Executive Officer
I-Access Group Ltd

Mr Allan POON
Director
Excalibur Global Financial Group Limited

Mr David FRIEDLAND
Managing Director, Asia Pacific
Interactive Brokers LLC

Mr Patrick LAM
Chairman
Hong Kong Securities & Futures Employees Union

Mr CHAN Kai-fung
Chief Executive Officer
Bright Smart Securities & Commodities Group Limited

Mr HUI Yik-bun

Mr Vincent MAK
Vice President
Futures and Options, Asia-Pacific
Nomura International (Hong Kong) Limited

Mr Vincent TURCOTTE

Mr Hugo LEUNG
Deputy Chief Executive Officer
BNP Paribas Securities (Asia) Limited

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

Staff in attendance : Ms Angel SHEK
Senior Council Secretary (1)4

Ms Sharon CHAN
Legislative Assistant (1)4

Action

I Briefing by the Secretary for Financial Services and the Treasury on the relevant policy initiatives in the Chief Executive's 2013 Policy Address

(LC Paper No. CB(1)422/12-13(01) — Administration's paper on 2013 Policy Address - Policy Initiatives of the Financial Services and the Treasury Bureau

Address by the Chief Executive at the Legislative Council meeting on 16 January 2013 (a booklet provided by the Administration)

Briefing by the Administration

The Secretary for Financial Services and the Treasury ("SFST") briefed Members on the policy initiatives of the Financial Services and the Treasury Bureau ("FSTB") featured in the Chief Executive's 2013 Policy Address by highlighting the following areas of work:

- (a) establishment of the Financial Services Development Council ("FSDC");
- (b) development of over-the-counter derivatives regulatory regime;
- (c) introduction of legislation to support a scripless securities market;
- (d) establishment of an independent Insurance Authority ("IIA") and a Policyholders' Protection Fund;
- (e) implementation of new Basel requirements;
- (f) improving the Mandatory Provident Fund ("MPF") System;
- (g) advancing financial cooperation with the Mainland and developing offshore Renminbi ("RMB") business;
- (h) promoting Hong Kong as an international asset management centre through reforming the trust law and developing the local bond market and Islamic finance platform;
- (i) improving the corporate insolvency laws; and
- (j) expansion of Hong Kong's network of comprehensive avoidance of double taxation agreements and putting in place a legal framework for entering into Tax Information Exchange Agreements with other jurisdictions.

(Post-meeting note: The speaking note of SFST (Chinese version only) was tabled at the meeting and issued to members vide LC Paper No. CB(1)498/12-13(01) on 29 January 2013.)

Discussion

Financial Services Development Council

2. Mr WONG Kwok-hing opined that the Administration should clarify the status and role of the newly established FSDC as different messages had been conveyed in the media reports. Mr Kenneth LEUNG enquired whether FSDC would have powers to decide on or execute government policies.

3. Dr KWOK Ka-ki observed that FSDC had been established in a hasty manner and a number of its members were Mainland capitalists. He said that there was grave public concern about hidden objectives in the establishment of FSDC, such as whether it would be tasked to channel the accumulated surplus of the Exchange Fund ("EF") for investment outside Hong Kong. Mr James TO remarked that the operation of FSDC should be transparent.

4. Mr James TIEN considered that, in view of the internationalization of RMB and continuous growth of RMB business in Hong Kong, it was understandable that members of FSDC had included Mainland financial experts as they would provide advice on the development of RMB offshore business in Hong Kong. Nevertheless, he concurred that the Administration should address public concern about FSDC's role, including whether it was intended to facilitate the setting up of a sovereign fund for the investment of EF.

5. SFST said that FSDC was a high-level, cross-sector advisor to the Government on measures to complement the internationalization of the financial market of the Mainland and further development of the financial services industry of Hong Kong. He clarified that FSDC would serve as an advisory body of the Government and would not take on any decision-making or execution of government policies functions. FSDC was tasked to bring about cross-sectoral collaboration and coordinate the views of various segments of the financial market. For this purpose, five committees had been set up under FSDC in respect of five areas, namely, financial development research, mainland opportunities, new business, human capital, and market development. It was believed that FSDC members, who were representatives of the relevant segments of the financial services industry, would serve the interests of the industry. SFST stressed that there was no "hidden" task for FSDC in relation to the investment of EF nor would FSDC operate as a sovereign fund. FSDC would maintain transparency in its work and would release its research reports as appropriate for public information. In response to Mr WONG Kwok-hing's enquiry, SFST added that FSDC would report its work to the Legislative Council ("LegCo") in future and FSTB would make available resources as appropriate and necessary to support FSDC's work.

6. Mr SIN Chung-kai asked if the Administration would make reference to the Economic Development Commission ("經濟發展委員會") and consider changing the name of FSDC to better reflect its advisory role, i.e. to change the rendition "局" to "諮詢委員會" so as to address public concerns about the role and status of FSDC. Mr James TIEN shared a similar view. Dr

KWOK Ka-ki shared the concern about ambiguity in the status and role of FSDC, in particular the Chinese rendition "局" was rarely adopted by other government advisory bodies.

7. SFST said that some other government advisory bodies also used the rendition "局" in their Chinese names, for instance, the Hong Kong Logistics Development Council ("香港物流發展局"), Hong Kong Maritime Industry Council ("香港航運發展局"), Hong Kong Port Development Council ("香港港口發展局") and Hong Kong Film Development Council ("香港電影發展局"), etc.

8. Mr Kenneth LEUNG noted that the Preparatory Task Force on the Financial Services Development Council ("PTF") had researched into ten selected countries/cities that had established financial services development bodies, and the findings had revealed that different models were available for the operation of FSDC. He enquired about the rationale to set up FSDC as a company limited by guarantee. Mr LEUNG opined that, given that FSDC would function as a government advisory body, there was no practical need for it to be set up as a company limited by guarantee for the benefit of greater flexibility in operation.

9. Mr James TO queried the need for FSDC to be set up as a company in order to obtain a legal status for the purposes of signing contracts, or holding investments and assets. Given the public concerns about the role and functions of FSDC, Mr TO opined that the Administration should disclose the party responsible for making the decisions to set up FSDC as a company limited by guarantee and to withhold such proposal.

10. Mr Dennis KWOK pointed out that TheCityUK, which FSDC had modeled its operation on, was set up as a trade association with its bulk of funding from membership fees and private sector contributions. Unlike TheCityUK, FSDC was a government advisory body. He was concerned that if FSDC was to be operated along the line of TheCityUK, there might be conflict of interests. Mr James TIEN also expressed doubt on the suitability to fully adopt the experience of TheCityUK in Hong Kong. Dr KWOK Ka-ki was concerned whether the proposal of setting up a company limited by guarantee for the operation of FSDC was to bypass the monitoring by the LegCo, the Hong Kong Monetary Authority ("HKMA") and the public.

11. SFST said that there were differences in the institutional set-up and functions of overseas financial services development bodies studied by PTF. Some were advisory bodies whereas some others were statutory bodies or

government departments. Based on the research findings and outcome of consultation with the stakeholders, PTF concluded that FSDC should best take the form of an overarching advisory body which advised the Government on the long-term development strategy of the financial services industry as a whole. PTF's recommendation of setting up FSDC as a company limited by guarantee was made with reference to the operation of TheCityUK. PTF took the view that the proposed arrangement was feasible as Hong Kong operated in a legal environment similar to that of the United Kingdom. SFST pointed out that, apart from tendering advice to the Government, FSDC would undertake in-depth research and industry surveys as well as engage in activities to promote Hong Kong's financial services to the Mainland and overseas. A corporate structure with its own budget would provide FSDC with enhanced flexibility in business planning and resources management to facilitate it in carrying out the functions in an effective manner. The Administration would further discuss with FSDC the proposal to set up a company limited by guarantee. He assured members that the relevant decision and arrangements would be made in a transparent manner.

12. Mr James TO requested the Administration to provide information on the reasons/justifications for FSDC to be set up as a company limited by guarantee, the authorities/parties that had made the decision, and when the decision was made.

(Post-meeting Note: The Administration's response was issued to members vide LC Paper No. CB(1)631/12-13(03) on 27 February 2013.)

13. Dr LAM Tai-fai expressed concern that the controversies over the status and role of FSDC had undermined public's acceptance of the organization, and enquired about the implementation of FSDC's recommendations in future. SFST said that, during the consultation conducted by PTF, the market practitioners generally supported the establishment of FSDC as they considered FSDC could play an overarching cross-sectoral role to provide strategic advice to the Government. The Administration considered that FSDC was recognized by the industry in general. As a high-level advisory body, FSDC would conduct extensive research on the long-term strategy and measures relating to financial services. It would engage with industry practitioners and other relevant stakeholders with a view to drawing up recommendations that were practicable for policy-making. The Administration would study FSDC's suggestions thoroughly before putting them into implementation.

14. The Chairman said that Mrs Laura CHA, Chairman of FSDC, had agreed to attend today's meeting to brief members on matters relating to FSDC. However, due to insufficient time at today's meeting, arrangements had been made for Mrs CHA to attend the Panel meeting on 4 February 2013 for the briefing.

Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone

15. Mrs Regina IP enquired about the latest development of the Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone ("the Cooperation Zone"), such as cross-border RMB lending and other forms of cooperation in financial, legal, professional and logistics services; and requested the Administration to provide information, including the potential impact of the development in the Cooperation Zone on Hong Kong's financial services industry. Noting Shenzhen Municipal Government's plan to support overseas financial enterprises in setting up international or regional business headquarters at Qianhai, Mrs IP expressed concern that Qianhai would become Hong Kong's potential competitor in the development of headquarters economy in future.

16. Mr CHAN Kam-lam said that while there had been continuous discussions between the Hong Kong Government and the Shenzhen Municipal Government on the Qianhai development plan for some time, it appeared that the authorities had yet to confirm the implementation details. Given the strategic value of the Qianhai development, Mr CHAN urged the Administration to conduct in-depth assessment of the potential benefits of the development to the financial services industry of Hong Kong, so that the industry could make early preparation and capture the new business opportunities timely. He considered that the pilot policies for Qianhai could serve as a bridgehead for similar initiatives of cooperation between Hong Kong and other cities in the Great Pearl River Delta Region and its periphery.

17. Mr James TIEN declared that he had participated in a delegation visit relating to business development to the Cooperation Zone. He observed that the Shenzhen Municipal Government had plans to develop Qianhai as a financial centre by making reference to banking regulation and management systems in Hong Kong. He was concerned how the governments of Hong Kong and Shenzhen would cooperate in taking forward the development in Qianhai, and the benefits to be brought for the financial services industry of Hong Kong.

18. SFST emphasized that the development of Qianhai aimed at achieving mutual benefits for both Hong Kong and the Mainland. The role of Hong Kong Government was to facilitate the local financial services industry to gain access to the Mainland market through Qianhai, to provide new opportunities for the industry and bring about business growth for Hong Kong. The Hong Kong Government had been proactively engaging in discussions with the relevant authorities of the Central Government and the Shenzhen Municipal Government in pursuing these objectives. It had also been communicating with the local financial services industry and would convey their views to the Mainland through various channels. The Administration would report the progress of work to the Panel when more details were confirmed. Based on information available so far, the Administration would provide information on the Qianhai financial policies and their potential impact on the financial services industry of Hong Kong.

(Post-meeting Note: The Administration's response was issued to members vide LC Paper No. CB(1)631/12-13(02) on 27 February 2013.)

Proposal to establish an independent Insurance Authority

19. Mr Albert HO noted that a public consultation exercise on the proposals for establishing an IIA had been completed in 2010, and enquired about the progress in finalizing the relevant legislative proposals for introducing the amendment bill into LegCo. Mr CHAN Kin-por said that the insurance industry still had many concerns on the IIA proposal, and asked how the Administration would address them.

20. SFST said that the Administration commenced a three-month public consultation in October 2012 on the key legislative proposals for establishing the IIA, and was refining the legislative proposals taking into account the views and concerns expressed by the insurance industry and the public. The Administration would consult the Panel on the refined legislative proposals around mid-2013 and aimed to introduce the relevant amendment bill into LegCo in late 2013.

Improvement of the MPF system

21. Mr CHAN Kin-por sought the details of the Administration's considerations to enhance the power of the Mandatory Provident Fund Schemes Authority ("MPFA"), including the power for approving MPF schemes and funds and their consolidations, in order to improve the MPF system. He remarked that enhancement of MPFA's powers and tightening of regulation might not necessarily bring about improvements to the MPF system, and expressed concern about over-regulation which would hamper the development of the insurance industry. As such, he urged the Administration to conduct thorough consultation with the industry on the various proposals to enhance MPFA's powers. Mr CHAN also cautioned about the feasibility of capping the fees of MPF funds and difficulty in working out appropriate caps for the purpose in maintaining the MPF system at a reasonable cost to scheme members.

22. SFST said that, based on the results of MPFA's Consultancy Study on MPF Trustees' Administration Costs released in November 2012, the Administration considered that policywise the existing availability of a broad range of MPF funds might not reflect the intended design of the MPF scheme for long-term retirement purposes. There was a genuine need to introduce changes to the MPF system, including enhancing the statutory powers of MPFA to process and approve MPF schemes and funds. Enhancing MPFA's statutory powers would enable it to have greater control over the design of MPF schemes and funds in meeting the public needs for retirement protection. As regards the proposed MPF fund fees cap, the Administration considered that effective intervention to drive down the fee level was necessary in case of market failure. The Administration aimed to conduct public consultation on relevant proposals in 2013.

Development of Hong Kong bond market

23. Mr Dennis KWOK enquired about specific measures to promote development of the local bond market, such as expanding the channels of bond trading or encouraging more public organizations like MTR Corporation Limited or the Airport Authority of Hong Kong to issue retail bonds. SFST highlighted that one of the measures to promote development of the local bond market was to continue implementation of the Government Bond Programme, which had increased interest of retail investors in bond investment and the liquidity of the bond market. Apart from Hong Kong dollar bonds, the Administration also promoted the development of RMB-denominated bonds and was examining ways to expand its dimension.

With the joint efforts of the Administration, the financial regulators and the Hong Kong Exchange and Clearing Limited ("HKEx"), procedures had been streamlined to shorten the lead time for processing applications for listing of bonds, which was conducive to sustainable development of the bond market. SFST added that, while the initiatives would improve market liquidity and increase bond investment of retail investors, unlike the equity market which was widely participated by retail investors, institutional investors would remain the major players of the bond market.

Implementation of the new Companies Ordinance and improvement to the corporate insolvency laws

24. Mr Albert HO observed that there were growing concerns about restriction of public access to personal information of directors including the residential addresses, to be imposed by the Companies (Residential Addresses and Identification Numbers) Regulation ("the Regulation") which was one of the subsidiary legislation to be made under the new Companies Ordinance ("CO"). He recalled that when the subject was discussed at the meetings of the Bills Committee on Companies Bill ("CB"), he and some other Bills Committee members had expressed reservation about withholding all information on directors' residential addresses from public inspection. However, the issue did not attract much public attention at that time and the relevant clause in CB was not taken out for separate voting during the committee stage of the Bill. Recently, the media had expressed concern about the restriction in question obstructing media reporting, and the labour sector was also worried about possible adverse impact of the new inspection arrangement on effective communication with company directors. As the Administration planned to commence the new CO in the first quarter of 2014, Mr HO considered that there was time for the Administration to re-visit the arrangement and address the concerns raised by stakeholders before introducing the Regulation into LegCo.

25. SFST said that the new arrangement concerning the inspection of personal information on the Companies Register had undergone a due process of consultation, and the Bills Committee on Companies Bill had also thoroughly studied related issues. The arrangement had formed part of the new CO which was enacted by LegCo in July 2012. The various pieces of subsidiary legislation to be made under the new CO for the commencement of the new CO would be introduced by batches for LegCo's vetting, and the Regulation was expected to be tabled at LegCo in May 2013. SFST said that the Administration was aware of the public concerns about the Regulation emerging recently and would continue to engage stakeholders in addressing

their concerns and seeking their views on the way forward. In this connection, the opinions of the Privacy Commissioner for Personal Data would be taken into account, with a view to striking a reasonable balance between the public need to access information and privacy protection.

26. In response to the Chairman's enquiry on the progress of the initiative to improve the corporate insolvency laws, SFST said that the Administration planned to launch a public consultation in 2013 to seek views on the concerned legislative proposals and to introduce the relevant bill into LegCo within the 2012-2016 legislative term.

Regulatory regime for electronic payment instruments and retail payment systems

27. Mr Charles Peter MOK suggested that the Administration should proactively gauge the views of the information technology sector on the development of regulatory regime for electronic payment instruments and retail payment systems, in particular the system for interoperable Near Field Communication mobile payments. He noted that while HKMA was consulting the banking sector on related proposals, apparently there was no channel for members of the information technology sector to provide views and make suggestions on the subject. SFST said that he would consider Mr MOK's view and follow up on the suggestion.

Broadening government revenue streams

28. Mr SIN Chung-kai noted from paragraph 38 of the Administration's paper that the Treasury Branch of FSTB would continue to consider options to broaden revenue streams for the Government for funding expenditure items, and was concerned whether the Administration was considering measures to widen the tax base or introduce new taxes which might affect the livelihood of the general public. SFST said that it was among the on-going functions of the Treasury Branch to review government revenue and expenditure with a view to stabilizing and diversifying revenue sources and ensuring effective deployment of government resources. The review also formed part of the work of the Treasury Branch to support the Financial Secretary in the Budget consultation and to compile the annual estimates of expenditure each year.

Relocation of government offices outside core business districts

29. The Chairman expressed disappointment about the slow progress in the relocation of departments in the three government office buildings at the Wan Chai waterfront since the initiative was announced some years ago. She enquired about the timetable for completing the relocation in releasing land to address the acute shortage of land for offices and commercial uses. The Permanent Secretary for Financial Services and the Treasury (Treasury) ("PS(Tsy)") explained that the relocation arrangements involved three large government office buildings with a total gross floor area of 175 000 square metres currently accommodating the offices of 29 government bureaux/departments with over 11 000 staff. The Administration was actively taking forward the relocation project. As the first step, smaller departments would be accommodated in the proposed West Kowloon Government Offices ("WKGO") project. New government offices were needed to be built in Kai Tak and Tseung Kwan O for accommodating the offices of the major departments, namely the Judiciary, the Inland Revenue Department and the Immigration Department. Subject to funding approval and taking into account the lead time for completing the relevant capital works projects for the new government offices concerned, it was anticipated that the proposed WKGO project would be completed by 2017-2018 and the phased relocation of government offices in the three government office buildings at the Wan Chai waterfront would commence in 2018-2019 at the earliest.

Review of section 39E of the Inland Revenue Ordinance

30. Dr LAM Tai-fai re-iterated his concern about the ineligibility of Hong Kong enterprises engaging in import processing trade for depreciation allowance in Hong Kong in respect of machinery and plants made available for use by their enterprises operating in the Mainland because of restriction under section 39E of the Inland Revenue Ordinance (Cap. 112) ("IRO"). He said that notwithstanding he had repeatedly urged for a review to amend the legislation, the Administration had not heeded the views. SFST said that the Administration had completed a review on section 39E of IRO and concluded that it was not justifiable to relax the restriction imposed by the legislation. The Administration had explained its stance to Members in detail during the last term of LegCo.

II Proposal of the Hong Kong Exchanges and Clearing Limited to introduce after-hours futures trading

Submissions from deputations attending the meeting

- (LC Paper No. CB(1)447/12-13(01) — Submission from Karl-Thomson Commodities Co Ltd (Chinese version only)
- LC Paper No. CB(1)453/12-13(01) — Submission from Optiver Trading Hong Kong Ltd (English version only)
- LC Paper No. CB(1)447/12-13(02) — Submission from Glory Sky Global Markets Ltd (English version only)
- LC Paper No. CB(1)447/12-13(03) — Submission from Fuji Hong Kong Commodities Co Ltd (English version only)
- LC Paper No. CB(1)447/12-13(04) — Submission from Shenyin Wanguo Futures (HK) Ltd (English version only)
- LC Paper No. CB(1)447/12-13(05) — Submission from Prudential Brokerage Ltd (Chinese version only)
- LC Paper No. CB(1)453/12-13(02) — Submission from I-Access Group Ltd (English version only)
- LC Paper No. CB(1)447/12-13(06) — Submission from Excalibur Global Financial Group Limited (English version only)
- LC Paper No. CB(1)447/12-13(07) — Submission from Interactive Brokers LLC (English version only)

- LC Paper No. CB(1)453/12-13(03) — Submission from Hong Kong Securities & Futures Employees Union (Chinese version only)
- LC Paper No. CB(1)453/12-13(20) — Submission from Bright Smart Securities & Commodities Group Limited (Chinese version only)
- LC Paper No. CB(1)453/12-13(21) — Submission from Mr HUI Yik-bun (Chinese version only)
- LC Paper No. CB(1)447/12-13(08) — Submission from Nomura International (Hong Kong) Limited (English version only)
- LC Paper No. CB(1)457/12-13(01) — Submission from BNP Paribas Securities (Asia) Limited (English version only)

Submissions from organizations / individuals not attending the meeting

- (LC Paper No. CB(1)447/12-13(09) — Submission from Huatai Financial Holdings (Hong Kong) Limited (English version only)
- LC Paper No. CB(1)447/12-13(10) — Submission from a member of the public (English version only)
- LC Paper No. CB(1)447/12-13(11) — Submission from a member of the industry (English version only)
- LC Paper No. CB(1)447/12-13(12) — Submission from Mr Almon

HO (English version only)

- LC Paper No. CB(1)447/12-13(13) — Submission from Guosen Securities (HK) Brokerage Co Ltd (Chinese version only)
- LC Paper No. CB(1)447/12-13(14) — Submission from a member of the industry (English version only)
- LC Paper No. CB(1)447/12-13(15) — Submission from a member of the industry (English version only)
- LC Paper No. CB(1)447/12-13(16) — Submission from Haitong International Futures Ltd (English version only)
- LC Paper No. CB(1)447/12-13(17) — Submission from First Shanghai Futures Limited (English version only)
- LC Paper No. CB(1)447/12-13(18) — Submission from SinoPac Securities (Asia) Limited (Chinese version only)
- LC Paper No. CB(1)447/12-13(19) — Submission from a member of the industry (English version only)
- LC Paper No. CB(1)447/12-13(20) — Submission from Johannesburg Stock Exchange Limited (English version only)
- LC Paper No. CB(1)447/12-13(21) — Submission from Bombay Stock Exchange Limited (English version only)
- LC Paper No. CB(1)447/12-13(22) — Submission from a member

- of the industry
(English version only)
- LC Paper No. CB(1)447/12-13(23) — Submission from a member of the industry (English version only)
- LC Paper No. CB(1)447/12-13(24) — Submission from a member of the industry (English version only)
- LC Paper No. CB(1)447/12-13(25) — Submission from a member of the industry (English version only)
- LC Paper No. CB(1)447/12-13(26) — Submission from Quorum 15 (English version only)
- LC Paper No. CB(1)447/12-13(27) — Submission from Stockwell Commodities Limited (English version only)
- LC Paper No. CB(1)447/12-13(28) — Submission from a member of the industry (English version only)
- LC Paper No. CB(1)447/12-13(29) — Submission from Nanhua Futures (Hong Kong) Co., Limited (English version only)
- LC Paper No. CB(1)447/12-13(30) — Submission from Phenix Professional Ltd (English version only)
- LC Paper No. CB(1)447/12-13(31) — Submission from a member of the industry (English version only)
- LC Paper No. CB(1)447/12-13(32) — Submission from iSTAR

- International Futures Co Limited (English version only)
- LC Paper No. CB(1)453/12-13(04) — Submission from Hong Kong Investment Funds Association (English version only)
- LC Paper No. CB(1)453/12-13(05) — Submission from a member of the industry (Chinese version only)
- LC Paper No. CB(1)453/12-13(06) — Submission from BM&FBOVESPA (English version only)
- LC Paper No. CB(1)453/12-13(07) — Submission from a member of the industry (English version only)
- LC Paper No. CB(1)453/12-13(08) — Submission from Asia TraderForum (English version only)
- LC Paper No. CB(1)453/12-13(09) — Submission from ADMIS Hong Kong Limited (English version only)
- LC Paper No. CB(1)453/12-13(10) — Submission from A global financial institution (English version only)
- LC Paper No. CB(1)453/12-13(11) — Submission from The Alternative Investment Management Association (English version only)
- LC Paper No. CB(1)453/12-13(12) — Submission from Jinrui Futures (Hong Kong) Limited (Chinese version only)
- LC Paper No. CB(1)453/12-13(13) — Submission from South

- China Financial Holdings Limited (English version only)
- LC Paper No. CB(1)453/12-13(14) — Submission from Grand China Futures Limited (English version only)
- LC Paper No. CB(1)453/12-13(15) — Submission from Miss Venus YEUNG (English version only)
- LC Paper No. CB(1)453/12-13(16) — Submission from Tibra Trading Hong Kong Limited (English version only)
- LC Paper No. CB(1)453/12-13(17) — Submission from Asia Securities Industry & Financial Markets Association (English version only)
- LC Paper No. CB(1)453/12-13(18) — Submission from Newedge Financial Hong Kong Limited (English version only)
- LC Paper No. CB(1)453/12-13(19) — Submission from IMC Asia Pacific Limited (English version only)
- LC Paper No. CB(1)457/12-13(02) — Submission from a member of the industry (English version only)
- LC Paper No. CB(1)457/12-13(03) — Submission from a member of the industry (English version only)
- LC Paper No. CB(1)457/12-13(04) — Submission from Moscow Exchange (English version only)

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LC Paper No. CB(1)457/12-13(05) — Submission from Mr Paul CHEUNG (Chinese version only)

LC Paper No. CB(1)457/12-13(06) — Submission from China Everbright Forex and Futures (HK) Limited (English version only)

LC Paper No. CB(1)457/12-13(07) — Submission from The Investors Protection Association (Chinese version only)

LC Paper No. CB(1)498/12-13(02) — Submission from Excalibur Global Financial Group Limited (Chinese version only)

LC Paper No. CB(1)498/12-13(03) — Submission from Topaz Group Limited (Chinese version only)

LC Paper No. CB(1)498/12-13(04) — Three articles written by academics on the after-hours futures trading proposal provided by the Administration (Chinese version only)

31. The Chairman welcomed the representatives of the Administration and deputations/individuals to the meeting. She reminded the deputations/individuals that their submissions provided to the Panel and views presented at the meeting would not be covered by the protection and immunity provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382). She then invited the deputations/individuals to give views on the Administration's proposal to introduce after-hours futures trading ("AHFT").

Presentation of views by deputations*Mr Mofiz CHAN*

32. Mr Mofiz CHAN considered that implementation of AHFT would not achieve the intended purpose of developing the futures industry in Hong Kong. He pointed out that, as the cash market had closed and index options were not available for trading during the extended trading hours, AHFT would not enable investors to hedge their futures positions. Besides, as the proposed new trading session (i.e. T+1 Session) would end at 11:00 p.m. whereas the stock market of the United States ("US") opened at 10:30 pm at Hong Kong time, it was doubtful whether an overlap of just half an hour in the trading hours would be useful for making reference to the movements in the US market. Furthermore, for those retail investors who did not participate in AHFT, they could be subject to more risks of market manipulation during the extended trading hours. Mr CHAN further pointed out that some market participants had expressed concern about the management of clients' trading risk during the AHFT session when normal banking services were not available. Although brokers could require their clients to deposit additional margin funds to safeguard their positions via internet banking, automatic teller machines and payment by phone service ("PPS"); these alternatives might not be practicable due to constraints, such as the daily maximum limit of transaction imposed by banks and traders might not accept cash deposits for additional margin funds. Mr CHAN said that there was also concern about additional operating costs on brokers involved in AHFT. He considered the Administration's estimation that the night time trading volume could account for up to 37% of the day time trading volume over optimistic, and queried the potential growth in the futures business to be brought by AHFT. Given the above reasons, Mr CHAN called on the Administration and HKEx to re-consider the suitability to introduce AHFT.

Hong Kong Securities & Futures Professionals Association

33. Mr David WONG, Chairman of the Hong Kong Securities & Futures Professionals Association ("HKSFPA") emphasized the importance to ensure financial safety rather than commercial interests in considering the AHFT proposal. Mr WONG pointed out that the futures market of Hong Kong was still an emerging market that was not comparable to those of the American and European economies in terms of scale, depth, maturity and recognition. Referring to the manipulative activities in overseas markets, he was concerned that the risks of implementing AHFT would be greater for a small

market like Hong Kong. Mr WONG also worried about the few financial instruments available for hedging purposes during the AHFT session as only index futures and gold futures would be included at the initial stage, and the absence of transactions in the cash market during the AHFT session. Besides, there were concerns about market manipulation and increased volatility in the opening of next day's trading. He considered that HKEx had not fully disclosed the risks associated with AHFT in its consultation paper, e.g. risks in the collection of additional margin from clients, default risks and excessive price movement.

Mr HUNG Hing-fai

34. Mr HUNG Hing-fai said that financial safety should be the main consideration in the development of any new financial services. As the existing mechanism had been operating effectively, he did not see the need to introduce AHFT, in particular as there would be no cash market transactions taking place during the extended trading hours which could be used for hedging futures. Referring to cases of manipulative activities in overseas markets such as interest rate rigging, Mr HUNG was worried that the small market of Hong Kong would be easily susceptible to market manipulation during the AHFT session. He considered that lessons should be learnt from the stock market crash in 1987 and Hong Kong should be cautious about the costly price investors might have to pay for the risks associated with AHFT.

Karl-Thomson Commodities Co Ltd

35. Mr SUNG Wing-yiu, representative of Karl-Thomson Commodities Co Ltd ("KTCCL") said that KTCCL objected to the proposal as it involved a number of loopholes and potential risks. Firstly, there were neither cash market transactions nor a wide range of derivatives for hedging futures during the AHFT session. As investors could not make reference to real-time market prices, they had to take their positions based on pure speculation, which was no different from gambling. AHFT would also encourage manipulation in the futures market which could have adverse knock-on effects on stock market prices and market confidence at the opening of next day's trading, as demonstrated by the stock market slump in 1987 resulting from a close interplay between the stock market and futures market. Mr SUNG further pointed out the difficulties for brokers to communicate with and collect margin funds from clients during the AHFT session. Based on a margin fund of about \$56,000 for a futures contract which could cover and withstand price fluctuation by some 1 100 points of the stock market, a fluctuation by over 20 000 points of the stock market would have exhausted

the deposited margin fund overnight. The clients' trading risks would even increase if they hedged their exposures near the closing of the night time trading hours at 11:00 pm when computer trading had been cut off, and the clients could only wait for the opening of next day's trading to take their positions, thus giving rise to greater market volatility in the stock market opening period in the next trading day. Besides, if clients could not raise capital to hedge their positions during AHFT, they had to close out their futures contracts, or default the contracts. Such risks of defaults and bad debts would threaten the operation of brokerages offering AHFT and the financial stability of Hong Kong at large. In view of the above loopholes, Mr SUNG took the view that the AHFT proposal was risky and was unfair to brokerages as they had to share the risks with their clients. If the Administration insisted taking forward the proposal, he suggested implementing it on a trial basis with a reduced price limit from +/-5% to +/-2.5%, and refining the mechanism in the light of experience.

Mr Mark HUI

36. Mr Mark HUI said that AHFT had been implemented in the cash market before but had adverse impacts on the retail investors. He criticized that the Administration had not learned from the past experience in implementing similar initiative for the futures trading which was associated with greater risks than cash market transactions. Mr HUI remarked that the measures launched by HKEx in the recent years, including the measure to shorten the lunch break in extending the trading hours of securities and derivatives and to develop RMB-denominated securities products, were not conducive to real benefits for the securities sector. On the contrary, securities firms had to bear the risks and costs arising from the implementation of novel measures, and some securities firms could not sustain business due to increased operating costs. Mr HUI opined that it would be impracticable for Hong Kong to adopt overseas practices indiscriminately due to differences in the local financial infrastructures and regulatory regimes. For instance, unlike the American and European markets, investors in Hong Kong could not directly open an investment account on the internet. While a range of derivatives products was available for trading overseas during their night time trading hours, it was not the case for the proposed AHFT in Hong Kong. Mr HUI considered it inappropriate to set the price limit at +/-5% as it could give rise to undue market volatility. He also pointed out that the current regulation had posed constraints on the collection of margin funds for AHFT when normal banking services were not available. It was questionable whether other banking facilities during night time (e.g PPS) suggested by HKEx could cater for the need of margin call for AHFT.

Optiver Trading Hong Kong Ltd

37. Mr Paul HILGERS, representative of Optiver Trading Hong Kong Ltd ("OTHKL") said that OTHKL supported the proposal to introduce AHFT in Hong Kong as it would close the gaps between the trading hours of Hong Kong and those of other major exchanges around the world. Similar initiatives in other exchanges had shown that AHFT would lead to an increase in futures trading volume by about 10% to 40% of the day time trading volume. With the introduction of AHFT, investors could have access to the futures market in Hong Kong in order to manage their risk exposures during the night time in response to events or news in the European or US time zones. Otherwise, these investors had to turn to derivatives products in overseas markets for hedging purposes. Mr HILGERS said that OTHKL supported the proposed price limit at +/-5%, and pointed out that, if the price limit was set too wide, market participants would lose confidence in the market because of the large price movements; and if it was too tight, it would curtail hedging efficiency. He said that securities firms including OTHKL could provide liquidity in derivatives and cash products and expand business in the after-hours. Mr HILGERS emphasized the importance to put in place proper risk-control measures by setting appropriate requirements for margin collection and position limits etc. The AHFT proposal should be considered from the perspective of the best interests of the market as a whole and not whether it suited the business model of individual market participants.

Hong Kong Securities Professionals Association

38. Ms Jeanne LEE, representative of Hong Kong Securities Professionals Association ("HKSPA") said that, as the cash market was closed at night and no financial instruments could be traded for immediate delivery, the futures trading volume during AHFT would not be large compared to day time trading. Large investors would be tempted to manipulate the futures market during the night trading hours at the expense of the small investors. HKSPA was concerned whether the Securities and Futures Commission ("SFC") would put in place adequate measures to monitor the futures market. HKSPA took the view that it was essential that any new products and services (including the proposed AHFT) taken forward by HKEx should give priority to Hong Kong's financial stability, and appropriate contingency measures would be put in place. HKSPA was particularly concerned about the protection for investors should the futures market experience drastic fluctuations during the AHFT session. Ms LEE emphasized that HKSPA would support the AHFT proposal only if appropriate risk management

measures were in place. The Administration and relevant authorities should review AHFT in the light of implementation. In addition, HKEx should take into account the views of both large and small securities firms before introducing new derivatives products for AHFT in future, with a view to developing a balanced market, diversifying investment products as well as providing more business opportunities for the futures industry.

Glory Sky Global Markets Ltd

39. Mr Paul WAN, Dealing Director of Glory Sky Global Markets Ltd ("GSGML") said that GSGML supported the introduction of AHFT as it could facilitate clients to hedge their positions in futures if there was any critical news or events coming up in Europe and US when the Hong Kong market was closed. Brokers could help manage the risk exposure of their clients by offering appropriate risk management measures and making suitable arrangement for margin collection. Regarding the proposed +/-5% price limit, GSGML considered it appropriate as it had made reference to overseas practices, and the current margin requirement could cover about a fluctuation of 1 400 index points that was comparable to the potential fluctuation under the proposed price limit of +/-5%. If the price limit was set too low, say +/-2.5%, it would render AHFT useless for hedging purposes. As regards the potential increase in operating costs on brokerages, GSGML took the view that the industry could collaborate to minimize the costs by sharing their trading platforms and facilities.

Fuji Hong Kong Commodities Co Ltd

40. Ms LO Ting-chi, Manager of Fuji Hong Kong Commodities Co Ltd ("FHKCCL") said that FHKCCL supported the AHFT proposal and anticipated that the proposed AHFT might not necessarily bring about operational difficulty, given that some firms, including FHKCCL, had all along been implementing adequate risk management measures to minimize market risks. FHKCCL believed that AHFT would help increase the futures business for securities firms and benefit the securities industry at large.

Shenyin Wanguo Futures (HK) Ltd

41. Mr Freddie KWAN, Sales Director of Shenyin Wanguo Futures (HK) Ltd ("SWFHKL") said that SWFHKL supported the introduction of AHFT on the grounds that it would help investors better manage their risks and hedge their futures positions. SWFHKL considered the proposed +/-5% price limit appropriate to serve the purpose of minimizing market volatility

during the AHFT session. It would not facilitate hedging if the price limit was lowered to +/-2.5% as suggested by some market practitioners.

Mr CHAN Chi-wai

42. Mr CHAN Chi-wai said that he objected to the AHFT proposal having regard to a small market demand, the potential risks and the low effectiveness of the proposal. While he supported trading of commodity futures and gold futures during the AHFT session, he expressed concern about including the trading of Hang Seng Index ("HSI") futures and H-Shares Index ("HHI") futures in the session. He pointed out that, while the futures exchanges of Australia, Republic of Korea and Osaka of Japan offered futures products that were linked to their stock market index, some other mature markets did not make available such products for trading probably due to concern about negative influence on the cash market arising from index futures trading. Mr CHAN was also concerned that the limited and unequal access to financial news or events in Europe or the US was unfair to some market participants. On risk management, Mr CHAN expressed concern about manipulative activities during the extended trading hours and suggested that the regulators should identify irregularities during the extended hours and minimize adverse impact on the cash market during next trading day. He urged HKEx to carefully consider the risks associated with AHFT and widely engage the relevant stakeholders. Mr CHAN further said that extending the futures trading hours was not cost effective as demonstrated by overseas experience. For example, the Singapore Exchange had since 1996 offered night time trading of Nikkei 225 Futures. The night time trading volume of the product in October 2012 was only some 9% of the trading volume of the respective day session on hourly average, despite the night time trading hours were five times that of the day session. He considered that AHFT would only add operating costs to brokerages and might force small firms to close down. Mr CHAN requested the relevant authorities to shelve the AHFT proposal and conduct fresh consultation with the securities industry on the way forward.

Prudential Brokerage Ltd

43. Mr Alvin CHEUNG, Associate Director of Prudential Brokerage Ltd ("PBL") said that PBL initially had reservations about AHFT but had finally come to support the proposal, having considered that AHFT would provide new business opportunities for securities firms, in particular more futures products were expected to be launched in the market following the acquisition of the London Metal Exchange by HKEx. As the proposed AHFT would partly overlap with the opening hour of the US cash market, it

would help investors manage their trading risks and hedge their futures positions with reference to the price movements in the US market. PBL also expected that the AHFT proposal would help create jobs in the securities industry.

I-Access Group Ltd

44. Mr Louis MAK, Chief Executive Officer of I-Access Group Ltd ("IAGL") said that according to a clients' survey conducted by IAGL, 77% of the 734 respondents supported the AHFT proposal, which was largely in line with the results of the public consultation conducted by HKEx in 2011. He also highlighted that 79% of the survey respondents considered the proposed +/-5% price limit appropriate. Mr MAK said that, as the proposed price limit was an international standard and had been proved effective, it would be risky and redundant to experiment with other price limits for implementing AHFT in Hong Kong.

Excalibur Global Financial Group Limited

45. Mr Allan POON, Director of Excalibur Global Financial Group Limited ("EGFGL") said that EGFGL supported the proposal. Like a pharmacy which operated at night time that catered for emergent and contingent needs, EGFGL believed that AHFT would enable investors to monitor prices and hedge exposures timely in response to market news as and when necessary. Otherwise, investors could only sit passively on their positions until the next business day, and the delay might incur substantial loss to their investments. It would also be in the interest of individual securities firms to provide AHFT so that business opportunities would not turn away to those firms that offered AHFT. Mr POON said that the price limit at +/-5% was appropriate, which, if lowered to +/-2.5%, would not meet hedging needs adequately. He pointed out that securities firms could help minimize clients' trading risk by dedicating staff to conduct on-line real time supervision, putting in place automated alerts of clients' futures positions, collection of margin funds via internet banking facilities etc. EGFGL believed that the setting of position limits and the relevant regulatory oversight exercised by HKEx and SFC would give investors further protection against the risks associated with AHFT.

Interactive Brokers LLC

46. Mr David FRIEDLAND, Managing Director, Asia Pacific of Interactive Brokers LLC ("IBLLC") said that IBLLC supported the proposal

to offer AHFT in Hong Kong. While there had been objections from some securities firms due to concerns about market manipulation and excessive price movements, IBLLC took the view that, if the price of a futures product deviated too much from its underlying assets, market forces would take advantage of the mispricing and trade it back into line. Market manipulation, if any, was subject to regulatory oversight. Besides, the Hong Kong Futures Exchange Limited had set the range of error trade which could bust trades that were outliers. As regards the proposed price limit, IBLLC understood that this was the industry norm, and the margin level requirements were considered adequate. Besides, a number of instruments such as Exchange Traded Funds and American Depository Receipts would offer arbitrage opportunities to investors during the AHFT session. In the view of IBLLC, it would not be justified not to introduce AHFT just because some firms did not find it lucrative or cost-worthy. IBLLC believed that AHFT would address market demand, elevate the position of Hong Kong in the international financial arena and was beneficial to the local economy.

Hong Kong Securities & Futures Employees Union

47. Mr Patrick LAM, Chairman of Hong Kong Securities & Futures Employees Union ("HKSFEU") said that HKSFEU objected to the proposal as it would give rise to more manipulative activities in the futures market and dampen investors' sentiment. Notwithstanding the proposed price limit mechanism to minimize market volatilities during the AHFT session, securities firms would still be burdened with the need to collect additional margin which could adversely affect the relationship and trust between brokers and clients. Increase in operating costs would also affect the viability of small securities firms and the livelihood of brokers. Mr LAM said that introducing AHFT was tantamount to encouraging more gambling activities in the futures market, while bringing about little benefit to the development of the industry. He urged the relevant authorities to carefully consider the AHFT proposal before putting it into implementation.

Bright Smart Securities & Commodities Group Limited

48. Mr CHAN Kai-fung, Chief Executive Officer of Bright Smart Securities & Commodities Group Limited ("BSSCGL") said that BSSCGL supported the proposal as it which would help attract more foreign investment to Hong Kong, and support the development of the local financial services industry. He criticized that some securities firms not only were reluctant to deploy time and resources to implement the proposed measure, but also did not wish other firms to offer the additional services. BSSCGL

took the view that AHFT could provide additional opportunities for clients to manage their risk exposures and minimize investment loss. In fact, round-the-clock trading would better facilitate risk management by completely closing the gap between the trading hours of Hong Kong and those of other exchanges. Mr CHAN said that BSSCGL supported setting the price limit at +/-5% and considered it inappropriate to lower the limit, as an unduly low limit would not provide enough room for hedging activities, and might even encourage manipulative activities.

Mr HUI Yik-bun

49. Mr HUI Yik-bun said that AHFT would bring about additional business opportunities for brokers during the extended trading hours. Like a convenience store operating round the clock, AHFT would facilitate business growth for the securities sector. Mr HUI opined that securities firms should adjust their mode of operation in response to market needs, so as to sustain business and avoid being driven out of the market.

Nomura International (Hong Kong) Limited

50. Mr Vincent MAK, Vice President, Futures and Options, Asia-Pacific of Nomura International (Hong Kong) Limited ("NIHKL") said that NIHKL supported the proposal of HKEx to introduce AHFT. The firm considered it urgent and necessary for Hong Kong to implement AHFT to catch up with other leading exchanges worldwide. The proposal would also cater for rising demand from investors for extending the futures trading hours so that they could manage risk exposures during the European and US trading hours in response to events or news in those time zones. NIHKL opined that AHFT would help securities firms to meet the trading needs of their clients, and support the growth of brokerage business in futures trading at no incremental cost as some of the securities firms, like NIHKL, had already been operating night trading desks to support clients who traded futures products in the European and US markets or in the evening trading sessions of some Asian exchanges, and had made the necessary arrangements to handle margin calls. NIHKL concurred that the proposed price limit at +/-5% would help address the issue of potential excessive volatility in AHFT. NIHKL believed that AHFT would attract more business opportunities to the futures industry and spur the economic growth of Hong Kong.

BNP Paribas Securities (Asia) Limited

51. Mr Hugo LEUNG, Deputy Chief Executive Officer of BNP Paribas Securities (Asia) Limited ("BNPPSAL") said that BNPPSAL fully supported the proposal to introduce AHFT. As an international financial centre, Hong Kong should catch up with the global developments, and the capability to operate AHFT was essential for Hong Kong to compete with other overseas derivatives exchanges that were already offering night trading and to fend off competition in similar products. With the introduction of AHFT in HKEx, investors could directly manage their futures positions during Hong Kong night time at real time against any major market news and movements in the European or the US markets. Without AHFT, the investment might gradually shift to overseas markets with night time trading, which in turn could affect the day time trading of the cash and futures products in Hong Kong. Moreover, AHFT was a prerequisite for HKEx to support asset classes traded on a global basis, and would facilitate Hong Kong in the development as a RMB offshore centre and help promote the internationalization of RMB products trading by enabling HKEx to serve international trading interest relating to RMB products. Mr LEUNG further said that the proposed +/-5% price limit for AHFT had been the tightest trading range allowed by international standard. If the price limit was set too low, the anticipated number of times when the market was limited would be frequent. This would not be desirable for an orderly traded futures market and would severely curtail the benefit of enabling market participants to hedge exposures during after-hours.

52. The Chairman said that some members of the industry were not able to attend the meeting had made submissions to the Panel in respect of the AHFT proposal. 46 submissions had been received from these parties before the meeting and circulated to members for reference. The Chairman then invited the representatives from the Administration, SFC and HKEx to provide initial response to the views of deputations/individuals.

Responses from the Securities and Futures Commission and the Hong Kong Exchanges and Clearing Limited

53. The Executive Director, Supervision of Markets, SFC ("ED/SFC") said that SFC observed that HKEx had put in place a number of risk management measures for implementing AHFT. For instance, to mitigate counterparty risks associated with AHFT, HKEx would perform monitoring of brokers' capital-based position limit ("CBPL") based on the current market prices and positions at regular intervals during the T+1 Session. A mandatory variation adjustment and margin call to markets (based on the morning Calculated Opening Prices) with T+1 Session would be introduced

following the market open of each T Session to collect by 12:00 noon both mark-to-market loss and margin of all positions. HKEx had also proposed to impose the +/-5% price limit to prohibit any transactions beyond the range and deter any excessive price movements. There were also minimum margin requirements set for brokerage firms and clients respectively. Under HKEx's proposal, there would be no margin call against brokerage firms during the AHFT session. Instead, HKEx would notify the brokerage firms about their variation adjustments and margin calls during the next regular trading session at 10:00 am. HKEx would conduct assessment for every brokerage firm to see whether it had mark-to-market loss for its positions and whether it fulfilled the minimum margin requirement. Besides, HKEx would conduct market surveillance during the after-hours to identify any manipulative activities. SFC took the view that the AHFT proposal and the relevant risk management measures were acceptable.

54. The Head, Global Clearing, HKEx ("H(GC)/HKEx") emphasized the importance to introduce AHFT as a measure to enhance Hong Kong's competitiveness vis-à-vis other overseas derivatives exchanges that were already offering night trading. The results of the public consultation conducted by HKEx in 2011 showed that a large majority of the market participants supported the AHFT proposal. HKEx had arranged simulation testing for AHFT with some of the exchange participants and positive results were confirmed. Regarding the concerns about market volatility during the AHFT session and potential manipulative activities, HKEx had explained its views and the risk management measures in detail in the paper provided to the Panel. H(GC)/HKEx said that, subject to SFC's approval, HKEx planned to implement AHFT in March 2013 at the earliest.

Discussion

Price limit mechanism and margin requirements

55. Mr Christopher CHEUNG enquired about the rationale for setting the proposed price limit at +/-5% and whether the limit would be subject to regular review. The Co-head, Equities and FIC Business, HKEx ("Co-H/HKEx") said that given the range of price limit adopted overseas for night time trading was 5% to 20%, the proposed price limit at +/-5% was the tightest by international standard. The proposal was made in response to industry concerns and had taken into account the prevailing minimum client margin requirement at 6% of the value of the futures contracts in general.

56. In view of suggestions from some market participants to set the price limit at 2.5%, 3% or 4% for the purpose of minimizing the risks associated with AHFT, the Chairman enquired if consideration could be given to lower the price limit. The Acting Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)² ("Atg PAS(FS)²") observed that HKEx had come up with the proposed price limit with reference to international practices and had given due regard to the disadvantages of a lower price limit. The Administration believed that the proposed price limit was appropriate and justified. ED/SFC said that HKEx had proposed the price limit after stringent considerations of historical data and overseas practices, and the need to strike a balance not to curtail the benefit of enabling market participants to hedge exposures during the AHFT session. HKEx would review the price limit in the light of implementation. In reply to the Chairman, ED/SFC said that SFC would not support a price limit lower than +/-5% for implementation of AHFT. If the price limit was lowered, the anticipated number of times when the market was limited would be more frequent, which would not be desirable for hedging activities.

57. Mr CHAN Kin-por said that, as the minimum client margin requirement was set at 6% of the value of the futures contracts which was above the price limit, i.e. +/-5%, it seemed that margin call for clients would not be triggered under the AHFT proposal. H(GC)/HKEx said that the minimum client margin would generally withstand most of the cases of price fluctuations given that the majority of the historical differences were about 5% or less. However, if the price fluctuated up/down drastically as triggered by major financial events (e.g. the 911 incident), futures clients would need to deposit additional margin funds.

Risk management measures against undue market volatility and manipulation

58. Mr SIN Chung-kai asked if AHFT was implemented, whether it would be at the discretion of retail investors of futures to participate in trading, and what advice or warnings SFC would give to investors in respect of AHFT. ED/SFC said that it would be in the interests of investors already engaged in day time trading of futures to manage their risk exposures during the AHFT session. Investors could take their positions or close out their futures contracts according to the risk assessment. In this connection, brokers could give advice to their clients on investment strategies having regard to clients' risk appetite and their unique circumstances. ED/SFC said that SFC would continue with its efforts to educate the investing public about the risks associated with futures investment.

59. Mr SIN Chung-kai remarked that the views of the deputations/individuals on the AHFT proposal were diverse, and the arguments put forth by those who supported or against the proposal were valid. Given that the major concern was the potential risks associated with the proposal, he enquired if HKEx/SFC had conducted simulation test to assess whether AHFT could withstand the possible shock from extreme financial events or crises comparable to those arising from the 911 incident, the Lehman Brothers incident and the euro debt crisis, etc. ED/SFC said that HKEx had studied the historical differences between the daily opening prices and previous closing prices of spot months of HSI futures and HHI futures between 2005 and 2011. The findings indicated that the average number of times in a year that the differences were more than 5% was only once for HSI futures and four times for HHI futures. As such, the proposed price limit of +/-5% was considered adequate in addressing potential undue volatility in the market. Besides, the CBPL arrangement, mandatory variation adjustment and margin requirements would be subject to continuous re-assessment in response to market changes.

60. Mr Christopher CHEUNG expressed concern about manipulative activities during the AHFT session resulting in heavy losses to small investors and enquired whether SFC would implement measures to curb manipulation. ED/SFC said that under the proposal, the requirements with regard to position limit, margin funds and the price limit up/down mechanism, etc. were aimed to minimize risks associated with AHFT. Both HKEx and SFC would discharge their respective responsibilities under the established regulatory framework to guard against manipulative activities in the futures market during both day and night trading sessions.

61. Mr CHAN Kam-lam sought the views of the deputations/individuals which supported the AHFT proposal on mitigation measures to address potential risks arising from AHFT. Mr Alvin CHEUNG of PBL said that at present, the Hong Kong futures market would still be affected by changes in the overseas markets during night time even though it was closed. The price impact would be seen when the Hong Kong market opened on the next day. With the introduction of AHFT, some of the futures trading and hedging needs in response to the overnight news and events could be satisfied, and hence transactions in the futures market would not be concentrated in the opening period of the market in the next morning and would help reduce the volatility and magnitude of the market price movement at the opening period. Moreover, AHFT would enable investors to manage market risks sooner and incrementally and would help reduce price volatility during the opening

period of the futures market in the next day. Mr CHAN Kai-fung of BSSCGL said that SFC and HKEx had all along exercised stringent supervision of the securities and futures markets through measures, such as setting margin requirements for brokerage firms and clients and the capital-based position limit. The supervision and relevant requirements would be the same for both day and night trading sessions. Moreover, the introduction of AHFT would give investors greater versatility in managing their futures positions and minimizing investment risks.

62. Mr WONG Kwok-hing considered that the risk management measures proposed by HKEx did not seem to fully address the concerns raised by some of the deputations/individuals. The Chairman and Mr CHAN Kam-lam sought the views of the Administration and SFC on whether the proposed risk management measures were adequate. Mr CHAN Kin-por asked whether SFC had assessed the possible impact of the AHFT proposal on financial stability, including whether the proposal would cause undue volatility in the futures market at the opening period of the next trading day.

63. Atg PAS(FS)2 said that the Administration noted that HKEx had contemplated the measures in a prudent manner on the basis of its professional expertise, and SFC had examined and confirmed the suitability and adequacy of the risk management measures. The Administration took the view that the measures should be acceptable. ED/SFC affirmed that the risk management measures proposed by HKEx were adequate to withstand major defaults of futures contracts and maintain stable and viable operation of HKEx.

64. Mr CHAN Kin-por opined that as the extended trading hours would only overlap with the trading hours of the US market by half an hour, it was doubtful if investors could make reference to the movements of the US market for managing their risk exposures. ED/SFC said that the trading hours of stock index futures in some major derivatives exchanges was as long as 23 hours in each trading day. However, the circumstances in Hong Kong were not ready to adopt a similar practice.

(The Chairman proposed to extend the meeting by 15 minutes. Members present did not raise objection to the extension.)

Accountability for implementation of AHFT

65. Mr WONG Kwok-hing expressed dissatisfaction that, notwithstanding the importance of the AHFT proposal to financial safety of

Hong Kong, SFST and the Permanent Secretary for Financial Services and the Treasury (Financial Services) had not attended discussion on this item. As diverse views were expressed by deputations/individuals attending the meeting with 12 deputations/individuals supporting the AHFT proposal and eight against it, Mr WONG considered that it would be irresponsible and hasty for the Administration and SFC to come to a decision to implement AHFT at the meeting. He queried which party would take up the responsibility should there be any adverse consequences after implementation of AHFT.

66. Atg PAS(FS)2 responded that the Administration supported the AHFT proposal as it would enhance Hong Kong's competitiveness as an international financial centre and support the development of the financial services industry. At the same time, the Administration attached great importance and priority in ensuring appropriate and adequate risk-control measures would be put in place, and had maintained dialogues with SFC on the AHFT proposal in this regard. The Administration noted that HKEx had conducted public consultation on the proposal. The Panel was briefed on the proposal at its meeting held in July 2012, and updated on the finalized proposed arrangements through an information paper provided in December 2012. The Administration took the view that there was adequate consultation on the AHFT proposal. While different views were expressed by some stakeholders, HKEx had endeavoured to strike a balance in the proposal and related risk management measures.

67. Mr Andrew LEUNG declared that he was a shareholder of HKEx. He stressed the importance for the Administration, SFC, and HKEx to clearly delineate their respective roles in the AHFT proposal otherwise they might shirk their responsibilities on the matter as none of them appeared to shoulder the ultimate responsibility over the proposal. He was concerned that HKEx could claim that it had put in place adequate risk management measures in submitting the proposal for SFC's approval. He considered it necessary to clarify the division of work and accountability of the three parties concerned.

68. ED/SFC said that HKEx, which was a market participant, was subject to SFC's regulation. On the other hand, HKEx was the frontline regulator and operator of the securities and derivatives markets in Hong Kong, and its rules and measures required SFC's approval. In approving HKEx's proposal, SFC would have regard to a number of considerations, including results of HKEx's consultation with the market and risk management measures put in place. While HKEx had commercial considerations in the development of its business, it was required under the Securities and Futures Ordinance (Cap. 571) ("SFO") to ensure its measures would serve the interests of the public at large and the financial stability of Hong Kong.

69. Atg PAS(FS)2 said that the Administration was responsible for policy formulation in relation to the development of the financial services market and maintenance of financial stability in Hong Kong, while SFC assumed the regulatory oversight of the securities and futures markets to ensure their order operation and HKEx was responsible for market surveillance at the frontline in accordance with SFO.

Consultation with the industry on the AHFT proposal

70. Mr James TO observed that some of the submissions expressing support for HKEx's proposal were identical or had similar contents. He asked the representative of FHKCCL, which had indicated support for the proposal, the reasons for the similarity of its submission with those of other supporters. Ms LO Ting-chi of FHKCCL replied that the firm had prepared its submission based on a sample letter provided by HKEx. Co-H/HKEx explained that HKEx had collected the views of the market participants during consultation and ongoing communication. The sample letters were provided in response to requests by some securities firms because such samples would serve as useful reference for firms and facilitate them in preparing their own submissions. He emphasized that the securities firms in question supported the AHFT proposal and the relevant arguments. These firms were responsible for their submissions provided to the Panel.

71. Mr James TO queried the appropriateness for HKEx to provide sample letters to securities firms and considered this a bad practice. Mr WONG Kwok-hing remarked that there would be conflict of interests on the part of HKEx in providing the sample letters to the industry for gauging their views, and HKEx's practice was tantamount to manipulation of stakeholders' views. He considered it irresponsible and inappropriate if the Panel accepted the AHFT proposal under such circumstances.

Way forward

72. In response to the Chairman's enquiries, ED/SFC confirmed that SFC had not yet approved the AHFT proposal. Atg PAS(FS)2 said that the Administration would not take part in the approval process as the matter was under SFC's purview.

73. Mr WONG Kwok-hing re-iterated his objection to the AHFT proposal and requested to put on record that the Administration, SFC and HKEx had not fully addressed the concerns/queries about the proposal raised by some Members and deputations/individuals at the meeting. He stressed the need for the concerned authorities to re-consider the proposal in a prudent manner, and urged HKEx to withhold implementation of the proposal. He suggested that the Panel should hold a further meeting with the relevant authorities to discuss the matter.

74. Mr CHAN Kin-por said that the Panel noted that there were diverse views expressed by deputations/individuals on the AHFT proposal. While he considered it inappropriate for LegCo to interfere with the authorities in the approval of the proposal; in making the final decision on the proposal, it was necessary for the relevant authorities to take into account the different views of the deputations/individuals and uphold accountability for their decision.

75. The Chairman concluded that the Panel had taken note of the diverse views expressed by the deputations/individuals. She called on HKEx to hold further discussion with stakeholders who were against the proposal with a view to addressing their concerns, and urged SFC to carefully consider the views raised by deputations/individuals and Members at the meeting, in particular the concerns about risk management. She suggested that the Administration should report to the Panel on the final decision on the AHFT proposal in due course. Atg PAS(FS)2 assured members that the Administration had listened to the views expressed by Members and deputations/individuals at the meeting, and SFC would carefully consider HKEx's proposal taking into account these views. He said that the Administration would consider the Chairman's suggestion of reporting the outcome of SFC's decision on the AHFT proposal.