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Legislative Council

LC Paper No. CB(1)1654/12-13
(These minutes have been seen
by the Administration)

Ref : CB1/PL/FA/1

Panel on Financial Affairs

Minutes of meeting
held on Monday, 8 April 2013 at 9:00 am
in Conference Room 1 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 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 WONG Ting-kwong, SBS, 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 WU Chi-wai, MH Hon TANG Ka-piu
Members absent :	Hon James TO Kun-sun Hon Ronny TONG Ka-wah, SC

Public officers attending	**:**	Agenda Item IV Prof K C CHAN, GBS, JP Secretary for Financial Services and the Treasury Mr Arsene YIU Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) 6 Ms Ada CHUNG, JP Registrar of Companies Companies Registry Agenda Item V Mr Eddie CHEUNG Deputy Secretary for Financial Services and the Treasury (Financial Services) 2 Agenda Item VI 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 Edmond LAU, JP Executive Director, Monetary Management Hong Kong Monetary Authority Mr Daryl HO Head, Market Development Division Hong Kong Monetary Authority Agenda Item VII Mr YEUNG Tak-keung Deputy Secretary for Financial Services and the Treasury (Treasury) 3 Mr Howard CHAN

Deputy Director of Government Logistics

Ms Francoise CHOW
Controller (Printing Services)
Government Logistics Department

Mr Clarence LOK
Senior Printing Superintendent (Operations)
Government Logistics Department

Mrs Sylvia LAM
Project Director 1
Architectural Services Department

Miss Monica LAM
Chief Project Manager 101
Architectural Services Department

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

Staff in attendance : Miss Winnie LO (Agenda item VI)
Assistant Legal Adviser 7

Ms Angel SHEK
Senior Council Secretary (1)4

Ms Sharon CHAN
Legislative Assistant (1)4

Action

I Confirmation of minutes of meetings and matters arising

(LC Paper No. CB(1)782/12-13 — Minutes of the meeting on 7 January 2013)

The minutes of the meeting held on 7 January 2013 were confirmed.

II Information papers issued since the last meeting

(LC Paper No. CB(1)791/12-13(01)	—	Letter dated 4 March 2013 from Hon Dennis KWOK to the Securities and Futures Commission on regulation of collective investment scheme in relation to investment offered by property developers in collective hotel ownership in Hong Kong (English version only)
LC Paper No. CB(1)791/12-13(02)	—	Securities and Futures Commission's written response dated 8 March 2013 to Hon Dennis KWOK's letter on regulation of collective investment scheme in relation to investment offered by property developers in collective hotel ownership in Hong Kong (English version only)
LC Paper No. CB(1)792/12-13(01)	—	Letter dated 15 March 2013 from Hon KWOK Wai-keung proposing discussion on regulatory issues relating to travel insurance arising from the incident of hot air balloon crash in Egypt (Chinese version only))

2. Members noted the information papers issued since the last regular meeting held on 4 March 2013.

III Date of next meeting and items for discussion

(LC Paper No. CB(1)781/12-13(01) — List of outstanding items for discussion

LC Paper No. CB(1)781/12-13(02) — List of follow-up actions)

3. Members agreed to discuss the following items proposed by the Administration at the next regular meeting scheduled for 6 May 2013:

(a) Briefing on the work of Hong Kong Monetary Authority ("HKMA");

(b) Electricity charges subsidy;

(c) Public consultation on improvement of corporate insolvency law;

(d) Review of statutory fees and charges of the Official Receiver's Office; and

(e) Annual briefing on the work of the Financial Reporting Council.

4. The Chairman suggested and members agreed that the next regular meeting on 6 May 2013 would start at 9:30 am to allow sufficient time for discussion of the above five items.

(*Post-meeting note*: With the concurrence of the Chairman, the regular meeting originally scheduled for 6 May 2013 was re-scheduled to 3 May 2013, at 9:00 am, to avoid clashing with continuation of the Council meeting of 24 April 2013. Members were informed accordingly vide LC Paper No. CB(1) 948/12-13 on 29 April 2013.)

IV New Arrangement for the Inspection of Personal Information on the Companies Register under the new Companies Ordinance

(LC Paper No. CB(1)788/12-13(01) — Administration's paper on "New Arrangement for the Inspection of Personal Information on the Companies Register under the new Companies Ordinance")

Briefing by the Administration

5. At the invitation of the Chairman, the Secretary for Financial Services and the Treasury ("SFST") briefed members on the proposed way forward for the new arrangement for the inspection of personal information on the Companies Register ("the new arrangement"). He said that legal provisions for the new arrangement had been incorporated in the new Companies Ordinance ("new CO") after due consultation and legislative processes. The majority of the respondents to the public consultations conducted some three years before supported that directors' full personal information should not be disclosed on the Companies Register. The legal provisions on the new arrangement had been scrutinized by the Bills Committee on the Companies Bill ("CB"), and the CB was passed by the Legislative Council ("LegCo") in mid-2012 and became the new CO. However, after the Administration had briefed the Panel on the subsidiary legislation to be made under the new CO in January 2013, some members of the public raised concerns about the new arrangement in respect of the directors' personal information. The Administration had been engaging stakeholders in the past three months to explain the rationale and operation of the new arrangement, and listen to their views on issues which were not expressed in previous consultations or during the scrutiny of the CB by the relevant Bills Committee. SFST said that, having regard to the diverse views received from different stakeholders in the latest engagement exercise, and the complex issues involved, two options on the way forward for the new arrangement could be considered: (a) to proceed with the new arrangement in accordance with the legislative proposals endorsed by the relevant Bills Committee; or (b) to improve and refine the new arrangement taking into account stakeholders' views expressed in the latest engagement exercise. As it would take time to study and consider a number of complex legal and privacy issues under option (b), the Administration would be unable to resolve all issues and prepare the relevant subsidiary legislation for tabling before LegCo in May 2013 and completing the enactment process within this legislative session in order to meet the target of bringing the new CO into operation in the first quarter of 2014. Given the importance of early implementation of the new CO for enhancing Hong Kong's competitiveness as a major business and international financial centre, if members agreed to adopt option (b), the Administration would accord priority to the tasks necessary for commencing the new CO in the coming months, and consider matters relating to the new arrangement thereafter. If option (b) was adopted, the Administration would not make the subsidiary legislation concerning the new arrangement at this stage, and would not include the relevant provisions in the commencement notice to be made in the fourth quarter of 2013 for commencing the new CO in the first quarter of 2014. The Administration would like to seek members' views on the way forward.

(*Post-meeting note*: The speaking note of SFST was circulated to members vide LC Paper No. CB(1)821/12-13(01) on 9 April 2013.)

Declaration of interests

6. The Chairman, Mr Albert HO, Mr CHAN Kam-lam, Mr Abraham SHEK, Mr WONG Ting-kwong, Mrs Regina IP, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr Christopher CHEUNG and Mr SIN Chung-kai declared that they were company directors.

Discussion

Members' views on the proposed way forward for the new arrangement for the inspection of directors' personal information on the Companies Register

7. Referring to the grave public concern arising from the commencement of the Intellectual Property (Miscellaneous Amendments) Ordinance 2001 (Amendment Ordinance) which led to subsequent reversal of certain provisions in the Copyright Ordinance (Cap. 528), Mr SIN Chung-kai considered it not too late to re-consider issues relating to the new arrangement. He appreciated the Administration's courage in putting forth option (b) to enable more time for working out an appropriate balance between privacy protection and the right to access directors' full personal information and reaching greater public consensus on related issues before moving forward. In taking option (b) forward, he opined that the Administration should aim at minimizing hindrance in the inspection of directors' personal information on the Companies Register while having regard to importance of privacy protection. He suggested that the Administration should form a working group consisting of representatives from the media, the Office of the Privacy Commissioner for Personal Data and other relevant parties to look into the matter, and come up with a proposal acceptable to the stakeholders at large.

8. Mr Dennis KWOK said that he welcomed the Administration's proposal to re-consider the new arrangement and stressed that the handling of related issues would have serious impact on the status of Hong Kong as an international financial centre. Mr Kenneth LEUNG also expressed support for the proposal to suspend the new arrangement and conduct fresh consultation with stakeholders. He considered that Hong Kong being a major international financial centre should enhance transparency in the conduct of economic activities while attaching importance to protect privacy. Mr TANG Ka-piu said that Members belonging to the Hong Kong Federation of Trade Unions supported according priority to the tasks necessary for commencing the new CO and considering matters relating to the new arrangement thereafter.

9. Mrs Regina IP supported the Administration in according priority to the tasks for commencing the new CO in the first quarter of 2014 as the CO rewrite exercise had already taken years to complete and further delay in implementing the new CO would jeopardize the efforts. As regards the new arrangement, she considered directors' residential addresses and full identification numbers were personal information that should not be disclosed, and noted that the community generally supported the direction of privacy protection. Referring to Data Protection Principle 3 of the Personal Data (Privacy) Ordinance (Cap. 486) ("PDPO"), Mrs IP pointed out that personal data should only be used for the purpose for which they were originally collected or a directly related purpose, unless the data subject had given prior consent. It followed that directors' personal information should only be used for the purposes of the new CO. It would be privacy intrusive and a breach of PDPO to use such information for other purposes. She cautioned about the risks of identity theft if unrestricted access was allowed for directors' personal information on the Companies Register, and urged the Administration not to compromise the principles of privacy protection nor to make concessions in the new arrangement just because of criticisms from some stakeholders. She further suggested that the Administration should discuss with the relevant parties to see how their concerns could be addressed.

10. Mr CHAN Kam-lam said that while he agreed with the need to strike a reasonable balance between privacy protection and enhancing transparency of company operation, it would be disappointing if the Administration should soften its stance on the new arrangement in face of objection from the media on grounds that the new arrangement would hinder its reporting work. He pointed out that the Privacy Commissioner for Personal Data ("the Privacy Commissioner") had already expressed disappointment with the Administration's proposal not to implement at this stage the legislative proposal to restrict access to company directors' personal data on the Companies Register as the existing system allowing unfettered public access to the information was inappropriate given the risk of abuse in using the information by a third party with political, financial or even criminal intent, and possible nuisances caused to directors in the form of unsolicited call or electronic message from unknown sources. On the new arrangement, Mr CHAN consider it acceptable as there would be legal channels for specified persons to access company directors' full personal information. While supporting the need to listen further to the views of stakeholders to address the new concerns raised on the arrangement, Mr CHAN urged that the Administration should not drag on the matter for too long. He further criticized that Members belonging to the Democratic Party ("DP") seemed to have adopted an inconsistent approach on the subject of privacy protection. While DP supported suspending the new arrangement for enhancing protection of directors' privacy, DP had not

disclosed its party members' information in relation to the company registration of DP.

11. Mr Andrew LEUNG observed that the collection and usage of personal information for marketing and other purposes were prevalent, and cautioned about the problem of misuse of personal data. He stressed the need to comply with the provisions of PDPO to protect privacy in ensuring that the personal data should only be used for purposes for which they were originally collected for, and this principle should be applied for all persons and under all circumstances. As regards the way forward, Mr LEUNG opined that the inspection mechanism should strike a balance between protecting privacy while allowing legal access to the directors' full information on reasonable and needed basis, such as for criminal investigation and enforcement. While he considered the Administration's proposal to hold the new arrangement in abeyance undesirable, he accepted the proposal as it would enable the Administration to further engage the stakeholders and address their concerns. He urged the Administration to sort out the related issues as soon as possible.

12. Mr WONG Ting-kwong said that due to the voluminous contents of the CB and the numerous proposals involved, the tight time frame faced by the relevant Bills Committee, and the heavy workload of LegCo in scrutinizing a number of bills towards the end of the previous term; issues relating to some legislative proposals, such as the new arrangement under the new CO, might not have been thoroughly examined. Hence, he supported the Administration's proposal to allow more time for reviewing the detailed implementation proposals for the new arrangement, with a view to striking a proper balance between privacy protection and right of access to directors' full personal information. On the way forward, Mr WONG expressed concern that the arrangement under the existing CO, which allowed disclosure of the full personal information of directors including their residential addresses on the Companies Register would not only cause nuisance to company directors but also their families. He opined that it would be unreasonable to exclude company directors from the scope of privacy protection. He further suggested that the Privacy Commissioner should be invited to a future meeting of the Panel when the matter was discussed.

13. Mr CHAN Kin-por said that it was absolutely clear that the identification numbers and residential addresses of company directors were personal information. It would be ridiculous and privacy intrusive to continue with the existing arrangement under CO to make available the full personal information of directors on the Companies Register for public inspection. He was concerned that the Administration would shelve the new arrangement indefinitely due to opposition voices and implementation difficulties, and urged the Administration to be firm with its stance and efforts in enhancing

protection of privacy, and not to hold a double standard and take enforcement action in a selective manner. Mr CHAN considered that, as some of the concerns might have arisen out of misunderstanding that the new arrangement would impose a total restriction on access to directors' full personal information including access on legitimate grounds, the Administration should engage stakeholders to explain the rationale and operation of the new arrangement in order to allay their concerns.

14. Mr Abraham SHEK remarked that as the provisions for the new arrangement had been scrutinized by the relevant Bills Committee and the CB had been enacted after due consultation and legislative processes, the decision of LegCo should be respected. He cautioned about the inappropriateness to revert the decision lightly and review the legislative provisions all over again, as this could give rise to far-reaching adverse consequences on the relationship between the Administration and the Legislature. He said that, while he did not object to the Administration adopting a sunshine policy to enhance transparency of company operation, he considered it incumbent upon the Administration to protect the privacy of every Hong Kong citizen, including company directors. In his view, although it appeared to be politically right to withhold the new arrangement in view of support from some political parties and concern groups, this decision might not represent the best interest of the majority. He urged that the Administration should carefully consider how to strike a balance in addressing the latest concerns rather than adopting a sit-and-wait attitude and allowing the problem to grow bigger.

15. The Chairman emphasized the need to apply the principle of privacy protection consistently for all parties. She had reservation about the approach taken by some Members on the matter and pointed out that while these Members had condemned the sale of Octopus cardholders' personal data for profits some years ago, they now adopted a different stance with regard to the loophole in the existing arrangement for inspection of directors' personal information on the Companies Register. On the Administration's proposal to allow more time for reviewing the detailed implementation proposals for the new arrangement, the Chairman considered it understandable as this would allow more time for conducting further consultation with the stakeholders without delaying preparation of other subsidiary legislation to be made under the new CO and the commencement of the new CO. As identity card numbers and residential addresses were information commonly used for authentication of a person's identity, she considered that disclosure of directors' personal information on the Companies Register might increase the risks of identity fraud and other crimes that would cause harm and distress to the directors; and hence suggested that the Administration should consult the Police in this regard. She cautioned that the Administration should not shelve the matter indefinitely, lest it would give the public a wrong impression that the new

arrangement would be totally abolished. She enquired about the Administration's timetable of reviewing the new arrangement and resolving the issues raised by stakeholders.

16. SFST advised that legal provisions on the new arrangement had been thoroughly deliberated by the Bills Committee on the CB, including the need of striking a proper balance between privacy protection and access to directors' full personal information. In this connection, the Administration respected LegCo's decision on passing the CB which has incorporated such provisions. However, since the Administration's briefing for the Panel on the draft regulation on detailed implementation aspects in January 2013, there were concerns raised by some members of the public about the new arrangement in respect of directors' personal information, some of which had not been put forth during earlier public consultations and scrutiny of the CB. The Administration also noted that the Privacy Commissioner had pointed out that the right to privacy was not absolute, which had to be balanced against other rights. As such, the Administration had consulted the Privacy Commissioner and had been engaging stakeholders in the past three months, and received views from parties including the media and labour groups. It was assessed that the complex issues in question could not possibly be resolved under the tight schedule of introducing the relevant subsidiary legislation into LegCo by end of May 2013. The Administration thus proposed to accord priority to the tasks necessary for commencing the new CO, and consider matters relating to the new arrangement thereafter. This would allow the Administration adequate time to consult the stakeholders on ways to improve and refine the implementation proposals for the new arrangement to address their concerns. In considering the way forward, SFST emphasized the need to strike a reasonable balance between protection of privacy and satisfying the need to access directors' personal information. Moreover, the future arrangement for inspection of directors' personal information should be simple to follow and easy to administer.

Additional safeguards to prevent abuse of directors' personal information

17. Mr TANG Ka-piu noted that some of the stakeholders suggested introducing additional safeguards to prevent possible abuse of the new arrangement, for example, putting in place a registration system to record the personal information of persons who conducted searches of the Companies Register, and informing the concerned directors about inspection of their personal information and the identity of the persons making the inspection. Mr TANG considered that the proposed arrangement odd and warranted thorough consultation and consideration as it might create new problem of abuse of personal information of the persons performing company searches. He further expressed reservation on the suggestion made by some stakeholders to expand the scope of "specified persons" allowing access to the full personal

information of directors on the Companies Register to include the media and some other sectors, e.g. banks, labour unions, certain categories of professionals such as lawyers and accountants, etc., as this could still hinder inspection by individual members of the public who were outside the scope of "specified persons", and might give rise to problem such as trading of information between the "specified persons" and those without access to the relevant information. Mr TANG took the view that the status quo should be maintained as long as the existing regime would not affect the economic activities of Hong Kong, and there was no evidence of abuse of directors' personal information or complaints on misuse of the information.

18. To address the concern that collection of information from persons making inspections on directors' full personal information on the Companies Register might generate a vast amount of personal information which would be difficult for the Companies Registry to handle, Mr Kenneth LEUNG suggested assigning a generic user number to each person inspecting the Companies Register, which could be used by the concerned person every time accessing the system to save the need for him to provide his personal information each time making the inspection. Unless the inspection had given rise to criminal investigation that required matching of the user number with the personal particulars of the "user", the personal information collected would not be used for any purpose. Mr LEUNG said that he would elaborate his suggestion in a written submission to be provided to the Administration in due course. SFST took note of members' views and suggestions.

Enhancing privacy protection in a comprehensive manner

19. Mr Dennis KWOK stressed the need for the Administration to look into issues of privacy protection in a comprehensive manner beyond those of data collection and inspection under the new CO to cover other legislation as well. For instance, he noted that personal data collected for business registration were also available for public inspection. Mr CHAN Kam-lam concurred that the Administration should not deal with issues of privacy protection in a piecemeal manner by addressing the concerns about the new arrangement for inspection of directors' personal information, but should also identify deficiencies in other areas as well. He pointed out the need to improve privacy protection of personal data provided by vehicle owners and property owners to the Commissioner for Transport and the Land Registry respectively from illegitimate usage by searchers as these records were made available for public inspection currently.

20. SFST said that the Administration attached great importance to privacy protection. Whilst the review on the implementation proposals for the new arrangement would focus on matters concerning the inspection of directors'

personal information on the Companies Register, the Privacy Commissioner would be in a better position to offer advice on privacy protection in the other aspects from a wider perspective.

Way forward

21. SFST thanked Members for their views and suggestions made at the meeting. He said that the Administration would continue to exchange views with the various stakeholders on the way forward for the new arrangement for inspection of directors' personal information on the Companies Register. The Chairman requested the Administration to report to the Panel on the follow-up actions relating to the new arrangement as soon as practicable.

V Extension of a supernumerary Administrative Officer Staff Grade C Post for the establishment of an independent Insurance Authority and a Policyholders' Protection Fund

(LC Paper No. CB(1)781/12-13(04)	—	Administration's paper on "Extension of a Supernumerary Directorate Post in the Financial Services and the Treasury Bureau (Financial Services Branch) to establish an independent Insurance Authority and a Policyholders' Protection Fund"
LC Paper No. CB(1)781/12-13(05)	—	Background brief on extension of a supernumerary Administrative Officer Staff Grade C post for the establishment of an independent Insurance Authority and a Policyholders' Protection Fund prepared by the Legislative Council Secretariat)

Briefing by the Administration

22. At the invitation of the Chairman, the Deputy Secretary for Financial Services and the Treasury (Financial Services) 2 ("DS(FS)2") briefed members on the proposal to extend a supernumerary Administrative Officer Staff Grade C ("AOSGC") post in the Financial Services Branch of FSTB for about 24 months from 15 October 2013 to 31 October 2015 for undertaking duties of, among other things, establishing an independent Insurance Authority ("IIA") and a Policyholders' Protection Fund ("PPF"). He said that having regard to the scale, complexity and sensitivity of the IIA and PPF proposals, and the need to engage the industry and fine-tune the proposals in response to industry feedback, the Administration considered it necessary to extend the AOSGC post in taking forward the related work. Subject to members' views, the Administration aimed to seek the recommendation of the Establishment Subcommittee on the proposal in May 2013 and approval from the Finance Committee ("FC") in June 2013.

Discussion

Duration of extension of the AOSGC post and timetable for setting up IIA and PPF

23. Mr SIN Chung-kai said that Members belonging to DP supported the proposal to establish IIA. He noted that, in addition to taking forward the primary legislation, the AOSGC post would also be involved in the preparation of subsidiary legislation and the initial preparation for setting up IIA. In the light of past experience in setting up regulatory authorities, such as the Mandatory Provident Fund Schemes Authority, Mr SIN expressed concern whether the proposed two-year extension for the AOSGC post would be adequate to deal with the various tasks ahead and asked whether the Administration would seek further extension if the work for establishing IIA had not been completed nearer the expiry of the post.

24. DS(FS)2 said that the proposed extension period reflected genuine operational needs, and had taken into account the work progress in taking forward the proposals relating to the establishment of IIA and PPF. For the IIA proposal, the three-month public consultation on the key legislative proposals which commenced in October 2012 was completed. The Administration was analyzing the views from respondents, and would report the consultation conclusions and the refined legislative proposals to the Panel in mid-2013 while finalizing the relevant bill in parallel. The Administration's plan was to introduce the bill into LegCo before the end of 2013, with a view to setting up IIA by 2015. The extension period for the AOSGC post had also taken into consideration the work related to the transition from the current self-regulatory regime for insurance intermediaries to a statutory licensing regime under IIA.

The Administration projected that, in the absence of unexpected events, the relevant tasks could be completed by 2015.

25. Mr WONG Ting-kwong pointed out the importance of the setting up of IIA and PPF to the insurance sector and policyholders, and that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") supported the proposal to extend the AOSGC post for taking forward the two proposals early. He enquired whether the Administration aimed to implement both initiatives concurrently.

26. DS(FS)2 said that, under the current planning, the Administration aimed to introduce the bill for establishing IIA into LegCo before the end of 2013, with a view to setting up IIA by 2015. As regards PPF, the target was to introduce the enabling legislation into LegCo within the 2013-2014 legislative session. Subject to the progress of LegCo's scrutiny of the legislative proposals, the Administration aimed to implement both proposals as soon as possible for achieving better protection of policyholders' interests.

Consultation with the insurance industry on the IIA and PPF proposals

27. Mr CHAN Kin-por considered it appropriate to have a dedicated team responsible for handling the IIA and PPF proposals. He emphasized the importance to ensure adequate manpower to deal with the various concerns about the proposals raised by the industry, including the need for the governing board of the proposed IIA and its committees to have adequate representation of industry players who had good understanding of the unique operation of the insurance industry. He supplemented that the heavy financial penalty of $10 million as a disciplinary sanction against misconduct of intermediaries was excessive. Mr CHAN urged the Administration to carefully consider and refine the proposed disciplinary sanction in the light of industry's concerns so that the regulatory regime would enhance protection for policyholders and at the same time ensure the viability of the insurance industry. The Chairman shared similar concerns. Referring to a consultation session she had participated in, she observed that the insurance industry had various concerns about the establishment of IIA and the impact of the proposed PPF on the insurers. She enquired about the Administration's timetable for addressing the issues raised by the industry.

28. DS(FS)2 said that the Administration was considering the industry's views and concerns in response to the public consultation on the key legislative proposals for establishing the IIA, and would review the legislative proposals in the light of the comments where appropriate. The consultation conclusions and the refined legislative proposals, including the Administration's responses to industry comments, would be reported to the Panel in mid-2013 for further

discussion. On the issue of pecuniary penalty on insurance intermediaries, DS(FS)2 explained that there was a wide spectrum of licensed insurance intermediaries ranging from individuals to large corporations such as multinational banks and international insurance brokerage firms like AON. It was imperative to ensure that the pecuniary penalties would have adequate deterrence to non-compliance and misconduct. The Administration's proposal strived to strike a balance between protection of policyholders' interests and healthy development of insurance business.

Other issues

29. Mr Kenneth LEUNG declared that AON was one of his clients. He enquired about the parties for undertaking investigation and disciplinary actions against insurance intermediaries under the proposed regulatory regime, i.e. whether the tasks would be conducted by dedicated committees of IIA or an external independent tribunal.

30. DS(FS)2 advised that a new statutory licensing regime under the IIA would replace the current self-regulatory regime operated by the three Self-regulatory Organizations. The IIA would be conferred with the requisite powers to conduct inspection and investigation of insurance intermediaries as well as taking disciplinary actions if warranted. An independent Insurance Appeals Tribunal ("IAT") would also be established to review regulatory and disciplinary decisions made by the regulator. An aggrieved party might appeal against IAT's decision to the Court of Appeal.

Conclusion

31. The Chairman concluded that members did not oppose to the submission of the staffing proposal for consideration of the Establishment Subcommittee. Having regard to the concerns and requests from the insurance sector, she said that the Panel would consider inviting deputations from the industry to a future meeting when the subject was discussed.

VI Proposal to raise the maximum amount of borrowings under the Government Bond Programme

(LC Paper No. CB(1)781/12-13(07) — Administration's paper on "Proposal to Raise the Maximum Amount of Borrowings under the Government Bond Programme"

LC Paper No. CB(1)781/12-13(08) — Background brief on proposal to raise the maximum amount of borrowings under the Government Bond Programme prepared by the Legislative Council Secretariat)

(As the Chairman had to attend another meeting, Mr CHAN Kin-por, the Deputy Chairman, took over the chair at this juncture.)

Briefing by the Administration

32. At the invitation of the Chairman, the Deputy Secretary for Financial Services and the Treasury (Financial Services)1 ("DS(FS)1") said that the Bond Fund was set up in 2009 with LegCo's approval for managing sums raised under the Government Bond Programme ("GBP"). As observed, the GBP had proved to be effective in promoting the development of the local bond market. Since further bond issuances would soon reach the maximum amount of borrowings of $100 billion under GBP, it was necessary to seek LegCo's approval to raise the limit.

33. With the aid of a powerpoint presentation, the Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)5 ("PAS(FS)5") briefed members on the background and development of GBP, including the progress made in the issuance of institutional and retail government bonds, investor base and demand, recognition of the Hong Kong Dollar ("HKD") government bond market by global bond benchmark, and growth in HKD bond issuances by the private sector as a financial intermediation channel. PAS(FS)5 said that a total of $70.5 billion of government bonds was outstanding as at end of March 2013. Taking into account the $16.5 billion of additional bonds to be issued, the total outstanding amount of government bonds was expected to reach $87 billion by end of August 2013. As the remaining quota of $13 billion might not be sufficient for the upcoming demand from September 2013 onward, the Administration proposed to expand the size of GBP in order to operate it in a sustainable manner. He said that the current plan was to seek, as soon as possible within the current legislative session, LegCo's approval of a resolution under the Loans Ordinance (Cap. 61) to raise the maximum amount of borrowings that might be outstanding by way of principal from $100 billion to $200 billion for GBP.

(*Post-meeting note*: The notes of the powerpoint presentation (LC Paper No. CB(1)817/12-13(01)) were issued to members vide Lotus Notes e-mail on 8 April 2013.)

Discussion

Borrowing ceiling of GBP

34. Mr WONG Ting-kwong said that Members belonging to DAB supported the development of the local bond market and the current proposal to raise the maximum amount of borrowings under GBP to reinforce Hong Kong's position as an international financial centre. Mr WONG noted that, while the existing borrowing ceiling of $100 billion was proposed in 2009 as a long-term target over a period of five to ten years, the projected outstanding amount of bonds issued by August 2013 was approaching the ceiling in less than five years since 2009. He was of the view that the current proposal to raise the borrowing ceiling to $200 billion might be conservative and suggested to increase the limit further, to say $300 billion.

35. Mr Jeffrey LAM said that Members belonging to Business and Professionals Alliance for Hong Kong supported the proposal. He pointed out that it was opportune time for the Government to issue more government bonds when the financial position of the fiscal reserves was sound and the interest rates for the issued bonds would be kept at a low level. In view of the small local bond market, Mr LAM considered that there was room to expand the size of GBP further, including issuing more iBonds to retail investors. He envisaged that the next issuance of iBond would be well received by the public as the prevailing inflation rate remained high at around 4%. Mr Christopher CHEUNG said that the financial services industry supported the proposal to expand the size of GBP in view of enthusiastic responses of the public to previous series of iBond and the positive impact of GBP on the development of the local bond market. He considered that the borrowing ceiling could be raised beyond the proposed level of $200 billion.

36. DS(FS)1 said that the existing borrowing ceiling was set at $100 billion in 2009 as GBP was then a new initiative and that the ceiling should be subject to review from time to time. The Administration observed that there was a growing demand for high quality public debt instruments with relatively lower risks compared to those issued by economies with financial difficulties. There was room to further develop the local bond market. The proposal to expand the size of GBP to $200 billion had taken into account the need to maintain a sustainable development of GBP and the market capacity to absorb further issuances of government bonds. Should it be necessary to adjust the ceiling in the future, the Administration would seek LegCo's approval.

37. In response to Mr Kenneth LEUNG's enquiry whether GBP included bonds issued by public-sector entities like the MTR Corporation Limited and the Airport Authority of Hong Kong, DS(FS)1 said that GBP would cover government bonds only.

Parameters of government bonds

38. Mr Kenneth LEUNG said that Members belonging to The Professional Commons supported the proposal for the benefits of enhancing the development of the HKD bond market and diversifying the investment channels in Hong Kong. He enquired whether government bonds under the expanded GBP would be denominated in other currencies in addition to HKD. Mr CHAN Kam-lam opined that the issuances should not be confined to HKD bonds but should include bonds denominated in other currencies, in particular Renminbi ("RMB")-denominated bonds for which there had been a growing demand. Mr Christopher CHEUNG said that issuance of RMB-denominated GBs would help reinforce the status of Hong Kong as an offshore RMB business centre. He asked if there would be a specific issuance quota for RMB-denominated government bonds.

39. DS(FS)1 said that, while the primary objective of GBP was to promote the development of the local bond market with a focus on HKD-denominated bonds, the proposed resolution, as in the previous one in July 2009, would not place a restriction on the currency denomination of government bonds. The Administration was aware of the substantial increase in RMB-denominated bond issuances in Hong Kong. Apart from the Central Government, financial institutions and corporations of the Mainland, Hong Kong and overseas places had been using Hong Kong as a platform to issue RMB-denominated bonds. The value of such bonds issued in Hong Kong in 2012 reached as much as $290 billion. She said that the Administration would take into account the development of RMB-denominated bonds in taking forward GBP in future.

Investor base of government bonds

40. Mr Kenneth LEUNG noted from page 7 of the powerpoint that only 1.3% of investors of institutional government bonds at tenders were pension fund investors. In view of the lack of investment instruments for MPF schemes/funds that could bring about a stable investment return at relatively low costs and risks, he suggested that the Administration should consider attracting more pension funds as institutional investors of government bonds. The Head, Market Development Division, HKMA said that the powerpoint information referred to only presented the percentage breakdown of investors of institutional government bonds at the time of tenders, and did not include the

situation in the secondary bond market. As bidding bonds in the primary market would call for highly technical and precise assessment of the prevailing bond prices, most non-bank institutional investors would choose to purchase bonds from primary dealers in the secondary market due to greater price certainty. As such, commercial banks still remained the largest investors that participated in institutional government bond tenders.

41. Mr CHAN Kam-lam said that he supported the proposal for benefits of enhancing growth in the local bond market and strengthening Hong Kong's position as an international financial centre. In view of the relatively small amount of government bonds issued for retail investors as compared with that for institutional investors, he considered that the issuance amount of retail government bonds should be increased to enhance the participation of retail investors in the local bond market. Mr CHAN also observed that small securities firms had difficulty in participating in the institutional bond market in face of competition from large investment banks and fund companies. Mr Christopher CHEUNG shared the view that the issuance quota for retail government bonds was small, and enquired if any limits were set for institutional and retail government bonds.

42. Mr James TIEN observed that as GBP was meant to promote bonds to the public as an alternative investment instrument, he considered that the retail government bonds should target retail investors only. He also expressed concern if banks might collect heavy charges from retail investors subscribing for government bonds.

43. DS(FS)1 said that the Administration had met the retail demand for high quality public debt instruments by the issuance of two series of iBonds in 2011 and 2012. Including a further issuance under proposal, the total size of iBonds issuance would reach $30 billion vis-à-vis the current size of GBP at $100 billion, i.e. about 30% of government bonds was invested by retail investors through iBond issuances. Many retail investors who had subscribed for iBond in the previous two issuances were first-time investors who had opened an investment account to subscribe for iBond. As regards the suggestion to increase issuances of retail government bonds, DS(FS)1 said that the Administration would keep in view the market development and the implementation of GBP in considering the way forward.

44. The Executive Director, Monetary Management, HKMA ("ED/HKMA") said that, in the allocation of the second iBond in 2012, each applicant was allocated up to a maximum of only four lots, which was indicative that the subscribers were mainly members of the general public. As regards bank charges, many banks did not collect subscription fees or custodian

fees from iBond investors. This was in line with GBP's objective to enhance the awareness and interest of the public in bonds.

Investment and management of the Bond Fund

45. Mr SIN Chung-kai enquired about the receipts and payments, and the balance of the Bond Fund since its establishment in 2009. He considered that the Administration should provide information on the projected income and expenditure of the Bond Fund to assist members in considering the present proposal and understanding the Government's capability to withstand risks arising from an expanded GBP.

46. DS(FS)1 said that information on receipts and payments of the Bond Fund was incorporated as part of the Estimates of Expenditure each year. She highlighted that the interest payments for government bonds in the past two years (i.e. 2011-2012 and 2012-2013) were about $0.7 billion and $1.2 billion respectively whereas the estimated interest payment for 2013-2014 was $1.7 billion. Apart from interest payments for bonds and principal redemptions, administrative expenses for the issuance and subscription arrangements were incurred. As regards investment income, DS(FS)1 said that the Bond Fund was managed by HKMA, and the same "fixed rate" sharing arrangement for investment income applicable to the fiscal reserves was adopted for the Bond Fund, i.e. the investment income to be paid by HKMA on the Bond Fund for a year was calculated on the basis of the average rate of return of the Exchange Fund's investment portfolio over the past six years or the average annual yield of three-year Exchange Fund Notes for the previous year, whichever was the higher. It would be premature to conclude the investment performance of the Bond Fund at this stage when GBP had been operating for a few years only, as investment returns essentially depended on market conditions in the medium and long term. Nevertheless, HKMA would continue to exercise prudence in managing the Bond Fund. ED/HKMA added that since establishment of the Bond Fund in 2009, the annual investment income from the Fund was higher than the interest payments and administrative expenses. That was mainly attributed to the prevailing low interest rate environment and the "fixed rate" sharing arrangement with HKMA for calculation of the investment income.

47. At the request of Mr SIN Chung-kai, the Administration agreed to provide information on the balance sheet of the Bond Fund, including information on the receipts and payments of the Fund since its establishment in 2009 covering items such as interest payments and principal redemptions, administrative expenses and investment income.

(*Post-meeting note*: the Administration's response was circulated to members vide LC Paper No. CB(1)953/12-13(02) on 30 April 2013.)

48. Mr TANG Ka-piu noted from the Estimates of Expenditures for 2013-2014 that the revised estimate of investment income for the Bond Fund was about $3.3 billion vis-à-vis the estimated interest payments of $1.2 billion in the same financial year. Given the satisfactory investment return of the Bond Fund over those of some conservative funds in the market, he suggested that the Administration should consider designating an amount of bonds issued under GBP (e.g. $10 billion to $20 billion) for investment by Mandatory Provident Fund ("MPF") schemes. In his view, the suggestion would achieve a three-win situation for the Government, MPF scheme members and the financial services industry. Mr CHAN Kin-por observed that, due to the high credit rating of AAA for the HKD bonds, interest payments for the bonds was relatively low, and hence might not be an attractive investment option for MPF scheme members.

49. DS(FS)1 said that the Administration had discussed with the Mandatory Provident Fund Schemes Authority on the related matters. Having regard to prevailing practices of the bond market and the need to maintain flexibility in the implementation of GBP, it might not be practicable to set a quota of government bonds issuances specifically for investment by a type of institutions or funds. Nevertheless, the Administration took note of Mr TANG's views.

50. Mr Dennis KWOK enquired whether there were new initiatives in the management and utilization of the Bond Fund. Referring to the resolution for setting up the Bond Fund in 2009, DS(FS)1 said that the objective of the Bond Fund was to promote the further and sustainable development of the bond market in Hong Kong. She stressed the importance to manage the Bond Fund prudently, and hence the Administration considered it appropriate to continue placing the Bond Fund with the Exchange Fund for investment. As the Bond Fund had been set up since 2009, more time should be taken to observe its operation and management before considering any ground for changes.

Other issues

51. Mr Jeffrey LAM asked if the Administration would consider introducing incentives to encourage debt issuances, in particular RMB-denominated bonds, by the private sector, so as to further promote development of the local bond market. DS(FS)1 said that the Administration observed that there was a growing trend for private entities to issue HKD bonds as an alternative source of funds in recent years, apart from sourcing funding from the banking sector and equity market. While bonds issued by private

entities involved commercial considerations such as costs, prevailing interest rate and market risks, etc., the Administration had been working with parties concerned to step up efforts to facilitate bond issuances. For instance, the Hong Kong Exchanges and Clearing Limited had streamlined the bond listing application procedures and processes to shorten the lead time for listing applications to as short as 24 hours.

52. At the request of Mr Kenneth LEUNG, the Administration agreed to provide information on the comparison of the bond markets of Hong Kong and those of major Asian financial centres as a financial intermediation channel for the private sector to complement the banking institutions and equity markets.

(*Post-meeting note*: the Administration's response was circulated to members vide LC Paper No. CB(1)953/12-13(02) on 30 April 2013.)

Conclusion

53. The Chairman concluded that members supported the Administration's proposal of moving a motion at the Council meeting within the 2013-2014 legislative session to raise the maximum amount of borrowings that might be outstanding by way of principal from \$100 billion to \$200 billion for GBP.

VII Relocation of the printing workshop of Government Logistics Department

(LC Paper No. CB(1)781/12-13(03) — Administration's paper on "Relocation of the Printing Workshop of Government Logistics Department")

Briefing by the Administration

54. At the invitation of the Chairman, the Deputy Secretary for Financial Services and the Treasury (Treasury)3 ("DS(Tsy)3") briefed members on the background and scope of the proposed project to relocate the existing Printing Workshop of the Government Logistics Department ("GLD") at Cornwall House, Taikoo Place, to the Government Logistics Centre ("GLC") at Chai Wan ("the relocation project"). He said that, subject to funding approval of FC, the Administration planned to commence the project in the fourth quarter of 2013 for completion in the third quarter of 2015.

Discussion

55. Mr James TIEN said that Members belonging to the Liberal Party supported the Administration's proposal. Mr SIN Chung-kai said that he supported the proposal as it would help reduce delivery costs and enhance operational efficiency of the Printing Workshop, and was in line with the policy to relocate government offices with no location requirements from high value areas for more effective use of land resources.

56. Mr SIN Chung-kai noted that the Stage 2 Public Engagement Exercise of the Review and Update of the Railway Development Strategy 2000 which was underway had included a proposed local enhancement scheme to construct the Siu Sai Wan Line. As construction of the Siu Sai Wan Line might involve reclamation, or demolition of buildings near Chai Wan affecting the site of the GLC in Chai Wan, he expressed concern that the relocation project might result in waste of public resources if the GLC in Chai Wan had to be demolished to make way for railway construction in future. Although the Siu Sai Wan Line was among the proposals to be considered by the MTR Corporation Limited, Mr SIN suggested that FSTB should discuss with the Transport and Housing Bureau ("THB") early about the possible impact, if any, on the relocation project. DS(Tsy)3 responded that FSTB would discuss with THB in this regard.

57. At the request of Mr SIN Chung-kai, the Administration undertook to provide information in the paper on the relocation project to be submitted to the Public Works Subcommittee ("PWSC") on the Administration's assessment on the cost-effectiveness of the relocation project in the light of possible implementation of the Siu Sai Wan Line.

(*Post-meeting note*: the Administration's response was included in the paper submitted to PWSC issued on 30 April 2013 vide PWSC(2013-14)2.)

58. The Chairman enquired about the use of the premises at Cornwall House after relocation of the Printing Workshop to GLC. DS(Tsy)3 advised that the premises currently occupied by the Printing Workshop in Cornwall House was a government-owned property. The Administration would consider using the premises for re-provision of government offices currently operating in leased premises.

59. Concluding the discussion, the Chairman said that members supported the Administration to submit the relocation project for consideration by PWSC.

VIII Any other business

60. There being no other business, the meeting ended at 11:10 am.

Council Business Division 1
Legislative Council Secretariat
2 August 2013