

**立法會**  
*Legislative Council*

LC Paper No. LS23/13-14

**Paper for the House Committee Meeting  
on 24 January 2014**

**Legal Service Division Report on  
Loans (Amendment) Bill 2014**

**I. SUMMARY**

- 1. The Bill**

The Bill introduces amendments to the Loans Ordinance (Cap. 61) to enable money raised through alternative bonds caused to be issued by the Government to be regarded as a borrowing for the purposes of that Ordinance. It amends the Bond Fund Resolution (Cap. 2 sub. leg. S) to enable sums borrowed upon the issuance of such bonds to be credited into the Bond Fund and payments in relation to such bonds to be made out of that Fund. Section 26A of the Inland Revenue Ordinance (Cap. 112) is amended to provide exemption from the profits tax for sums paid on such bonds and any profits from the disposal of such bonds. The provisions of the Bill are necessary for the issuance of alternative bonds originated by the Government. They are technical in nature.
- 2. Public Consultation**

There was no separate consultation other than the consultation with LegCo.
- 3. Consultation with LegCo Panel**

The Panel on Financial Affairs was consulted on 2 December 2013 and members did not raise any objection to the proposal.
- 4. Conclusion**

Subject to Members' views, the Bill may be ready for resumption of the Second Reading Debate.

## **II. REPORT**

The date of First Reading of the Bill is 22 January 2014. Members may refer to the LegCo Brief (File Ref.: B9/33/3C) issued by the Financial Services and the Treasury Bureau on 10 January 2014 for further information.

### **Object of the Bill**

2. To amend the Loans Ordinance (Cap. 61) so that the money raised by the Government by alternative bonds issued under a specified alternative bond scheme set up by the Government is treated as money borrowed by the Government and may be credited to the Bond Fund, to make a related amendment to the Bond Fund Resolution (Cap. 2 sub. leg. S) to allow payments in relation to the alternative bond issued may be made out of the Bond Fund, and to amend the Inland Revenue Ordinance (Cap. 112) to exempt from profits tax amounts derived from such alternative bonds and profits on the sale or other disposal of such alternative bonds.

### **Background**

3. The Inland Revenue and Stamp Duty Legislation (Alternative Bond Schemes) (Amendment) Ordinance 2013 passed by LegCo on 10 July 2013 has provided the necessary comparable taxation framework to put Islamic bonds (sukuk) on the same footing as conventional bonds. In the relevant legislation, sukuk is within the meaning of a specified alternative bond scheme<sup>1</sup> and is an alternative bond. The Administration intends to raise funds under the Government Bond Programme (GBP) through the issuance of sukuk. It is expected that an inaugural sukuk issuance originated by the Government of HKSAR will draw attention and interest in the global market and attract a new group of new investors from the Middle East and other parts of the world to Hong Kong's financial platform.

### **Provisions of the Bill**

4. The Bill adds a new section 2A to Cap. 61 to expand the meaning of "borrow", "interest" and "principal" to encompass money raised through a

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<sup>1</sup> "Specified alternative bond scheme" is defined by section 4 of Schedule 17A to Cap. 112. An "alternative bond scheme" is defined by section 2 of that Schedule.

specified alternative bonds scheme with the Government as the originator (SABS)<sup>2</sup>. The bond proceeds received by the Government from the bond issuer on the issuance of an alternative bond under the qualified bond arrangement<sup>3</sup> of SABS would be regarded as the sum borrowed by the Government and "borrow" and "principal" are to be construed accordingly. Payments agreed to be made by the Government under the qualified investment scheme<sup>4</sup> of the SABS and used to pay additional payments under the bond arrangement are regarded as interest on the sum regarded as being borrowed and "interest" is to be construed accordingly. (Clause 4) The definition of "borrow" in section 2 would be expanded to include the meaning of the word as provided in the new section 2A. (Clause 3)

5. Section 3(4) of Cap. 61 is amended to include any agreement relating to a borrowing within the meaning of the new section 2A(2), i.e. funds raised through the issuance of an alternative bond. (Clause 5)

6. To enable the Government to credit the funds raised through the issuance of an alternative bond into the Bond Fund established by the Resolution of LegCo, i.e. the Bond Fund Resolution (Cap. 2 sub. leg. S), and make payments of sums in relation to an alternative bond out of that Fund, the Bond Fund Resolution is amended by adding a new paragraph (ea) to include the sums borrowed in the manner described in the new section 2A of Cap. 61. (Clause 7)

7. Section 26A of Cap. 112 is amended to exempt from profits tax additional payments paid or payable on an alternative bond issued in connection with a borrowing by the Government as provided in the new section 2A(2) of Cap. 61 and any profits on the sale or other disposal, or upon the redemption, of such an alternative bond. (Clause 8)

8. The provisions are technical in nature. They are necessary for the issuance of alternative bonds originated by the Government to be made within the regime of Cap. 61 and the Bond Fund Resolution.

## **Public Consultation**

9. According to the LegCo Brief, no separate public consultation

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<sup>2</sup> A schematic illustration of sukuk issuance in the form of Ijarah (i.e. lease arrangement) is provided in Annex B to the LegCo Brief.

<sup>3</sup> A qualified bond arrangement is one of the two components of SABS and is defined by section 13(1) of the Schedule 17A to Cap. 112.

<sup>4</sup> A qualified investment scheme is the other component of SABS and is defined by section 13(2) of the Schedule 17A to Cap. 112.

has been conducted apart from consulting the LegCo Panel on Financial Affairs referred to in the next paragraph.

### **Consultation with LegCo Panel**

10. The Clerk to the Panel has advised that the Panel on Financial Affairs was consulted on 2 December 2013 and members did not raise objection to the proposal. Members made enquiries on a number of issues, including impact of the proposal on the GBP such as the size of sukuk issuance and the revenue and expenditure involved in issuing sukuk under the GBP; protection for investors of sukuk issued under the GBP; and measures to promote the sukuk market and Islamic finance in Hong Kong.

### **Conclusion**

11. No difficulties in legal and drafting aspects of the Bill have been identified. Subject to Members' views, the Bill may be ready for resumption of the Second Reading Debate.

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20 January 2014