

**立法會**  
***Legislative Council***

LC Paper No. CB(1)626/13-14

(These minutes have been seen  
by the Administration)

Ref : CB1/PL/FA/1

**Panel on Financial Affairs**

**Minutes of meeting**

**held on Monday, 4 November 2013 at 9:00 am  
in Conference Room 2 of the Legislative Council Complex**

**Members present :** Hon Starry LEE Wai-king, JP (Chairman)  
Hon Christopher CHEUNG Wah-fung, JP (Deputy Chairman)  
Hon Albert HO Chun-yan  
Hon James TO Kun-sun  
Hon CHAN Kam-lam, SBS, JP  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon WONG Kwok-hing, BBS, MH  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Hon CHAN Kin-por, BBS, 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 SIN Chung-kai, SBS, JP

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

**Public officers attending** : Agenda Item IV

Mr Eddie CHEUNG

Deputy Secretary for Financial Services and the Treasury (Financial Services)<sup>2</sup>

Mr Ronald HO

Assistant Secretary for Financial Services and the Treasury (Financial Services)<sup>(3)1</sup>

Mr CHIU Kwok-kit, JP

Deputy Commissioner of Inland Revenue (Technical)

Mr Tony CHAN

Acting Assistant Commissioner of Insurance (Policy and Development)

Agenda Item V

Miss AU King-chi, JP

Permanent Secretary for Financial Services and the Treasury (Financial Services)

Mr Jackie LIU

Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)<sup>5</sup>

Agenda Item VI

Miss Salina YAN, JP

Deputy Secretary for Financial Services and the Treasury (Financial Services)<sup>1</sup>

Miss Angora NGAI

Assistant Secretary for Financial Services and the Treasury (Financial Services) (Mainland Affairs)

Agenda Item VII

Ms Mable CHAN, JP

Deputy Secretary for Financial Services and the Treasury (Treasury)<sup>2</sup>

Ms Shirley KWAN

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

Mr WONG Kuen-fai, JP  
Commissioner of Inland Revenue

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

**Staff in attendance :** Miss Winnie LO  
Assistant Legal Adviser 7  
  
Ms Angel SHEK  
Senior Council Secretary (1)4  
  
Ms Sharon CHAN  
Legislative Assistant (1)4

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Action

**I Confirmation of minutes of meetings and matters arising**

(LC Paper No. CB(1)139/13-14 — Minutes of the meeting on  
10 October 2013)

The minutes of the meeting held on 10 October 2013 were confirmed.

**II Information papers issued since the last meeting on 5 July 2013**

(LC Paper No. CB(1)1606/12-13(01) — Second quarterly report of  
2013 on "Employees  
Compensation Insurance —  
Reinsurance Coverage for  
Terrorism"

LC Paper No. CB(1)1684/12-13(01) — Hong Kong Monetary  
Authority's response to letter  
dated 4 June 2013 from Hon  
TANG Ka-piu on issues  
arising from over-deduction  
of amounts from Octopus  
cards

LC Paper No. CB(1)1702/12-13(01) — Half-yearly Economic

- Report 2013 and the press release
- LC Paper No. CB(1)1716/12-13 — Quarterly Report of the Securities and Futures Commission (April to June 2013)
- LC Paper No. CB(1)12/13-14(01) — Letter dated 30 September 2013 from Hon TANG Ka-piu proposing discussion on improvement measures on the Mandatory Provident Fund system arising from the consultancy study on trustees' administration costs conducted by the Mandatory Provident Fund Schemes Authority in 2012 (Chinese version only)
- LC Paper No. CB(1)12/13-14(02) — Joint letter dated 3 October 2013 from Hon TANG Ka-piu and Hon KWOK Wai-keung proposing discussion on issues relating to the arrangement for offsetting Severance Payment or Long Service Payment under the MPF system (Chinese version only)
- LC Paper No. CB(1)14/13-14(01) — Letter dated 11 July 2013 from Hon WONG Kwok-hing proposing discussion on issues relating to bank service charges (Chinese version only)
- LC Paper No. CB(1)164/13-14(01) — Third quarterly report of

2013 on Employees  
Compensation Insurance —  
Reinsurance Coverage for  
Terrorism

LC Paper No. CB(1)201/13-14(01) — 2012-2013 Annual Report of  
the Process Review Panel for  
the Securities and Futures  
Commission)

2. Members noted the information papers issued since the regular meeting held on 5 July 2013.

### **III Date of next meeting and items for discussion**

(LC Paper No. CB(1)155/13-14(01) — List of outstanding items for  
discussion)

3. Members agreed to discuss the following items proposed by the Administration at the next regular meeting scheduled for 2 December 2013:

- (a) Briefing by the Financial Secretary on Hong Kong's latest overall economic situation;
- (b) 2014-2015 Budget consultation;
- (c) Briefing on proposed legislation to enable the issuance of Islamic Bond under the Government Bond Programme; and
- (d) Plan for 2016 Population By-census.

4. Members further agreed that the next regular meeting in December 2013 should start at 9:00 am so as to allow sufficient time for discussion of the above four items.

*Duration of lunch break under the extended trading hours of Hong Kong securities market ("the lunch break arrangement")*

5. Mr WONG Kwok-hing referred to item 11 of the Panel's "List of outstanding items for discussion" and reiterated the concern of the securities industry about the lunch break arrangement. As the Administration would provide an information paper on the subject in the fourth quarter of 2013,

Mr WONG suggested that the Panel should discuss the subject at the regular meeting in January 2014.

6. The Chairman said that she and the Deputy Chairman had discussed with the Administration on the subject at the work plan meeting of the Panel held on 30 October 2013, and noted that the Administration would provide the information paper soon. The Chairman suggested and members agreed that the Administration be requested to provide the information paper as soon as possible and the Panel would consider scheduling a discussion on the subject later.

*Impact of the Shanghai Pilot Free Trade Zone and Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone on Hong Kong*

7. The Chairman informed members that, to follow up the suggestion of some members that the Panel should discuss issues relating to the establishment of Shanghai Pilot Free Trade Zone, and Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone and their impacts on Hong Kong, the Hong Kong Monetary Authority ("HKMA") had been requested to include in its briefing information on the above developments in relation to monetary affairs and answer members' questions at the special meeting to be held on 15 November 2013.

#### **IV Briefing on the Inland Revenue (Amendment) Bill 2014**

(LC Paper No. CB(1)155/13-14(02) — Administration's paper on the Inland Revenue (Amendment) Bill 2014)

##### Briefing by the Administration

8. At the invitation of the Chairman, the Deputy Secretary for Financial Services and the Treasury (Financial Services)<sup>2</sup> ("DS(FS)2") briefed members on the background and purpose of the proposed amendments to the Inland Revenue Ordinance (Cap. 112) ("IRO") to implement the 2013-14 Budget initiative to give captive insurers a concessionary profits tax rate (i.e. half of the normal tax rate of 16.5% for corporations) for their business of insurance of offshore risks; and to raise the deduction ceiling for contributions made by employees or self-employed persons to recognized retirement schemes subsequent to the increase of the maximum relevant income level under the Mandatory Provident Fund ("MPF") Schemes Ordinance (Cap. 485) from \$25,000 (per month) to \$30,000 (per month) with effect from 1 June 2014.

## Discussion

### *Proposed tax concession for captive insurers*

9. The Chairman, Mr CHAN Kin-por and Mr Kenneth LEUNG welcomed the proposal to reduce the profits tax rate for captive insurers. Mr CHAN commended the Administration for taking joint efforts with the insurance sector in realizing the policy of the Central Government promulgated in June 2012 to encourage Mainland companies to form captive insurers in Hong Kong in order to enhance their risk management. He enquired about measures to avoid double taxation on Mainland-based companies setting up captive insurance business in Hong Kong.

10. The Deputy Commissioner of Inland Revenue (Technical) ("DCIR(T)") said that under the Arrangement between the Mainland of China and the Hong Kong Special Administrative Region for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income ("the Arrangement"), the profits of a Mainland enterprise carrying on business through a permanent establishment in Hong Kong would be subject to Hong Kong tax but the Mainland enterprise would be entitled to a tax credit in the Mainland. As Hong Kong adopted the territorial basis of taxation, the profits of a Hong Kong enterprise derived from a permanent establishment in the Mainland would not normally be subject to profits tax in Hong Kong, and hence there would be no double taxation. The Arrangement would help avoid levying double taxation in respect of profits tax of captive insurers set up by Mainland companies in Hong Kong. Regarding the tax credit method adopted for providing the double taxation relief under the Arrangement, DCIR(T) advised that if income taxable in the source jurisdiction was also subject to tax in the resident jurisdiction, the tax levied in the source jurisdiction would be credited against the tax levied in the resident jurisdiction on such income.

### *Attracting more companies to set up captive insurers in Hong Kong*

11. Mr Kenneth LEUNG asked the Administration for its estimated number of enterprises from the Mainland or Asian region that would be attracted to form captive insurers in Hong Kong as a result of the proposed tax concession. DS(FS)2 said that the Office of the Commissioner of Insurance had received many enquiries from the industry since the announcement of the measure in the 2013-14 Budget. While it would be difficult at this stage to estimate the number of prospective captive insurers to be established in Hong Kong, the Administration would inform the public of new developments as and when appropriate.

12. In order to enhance Hong Kong's competitiveness in the Asian region as an insurance hub, Mr CHAN Kin-por suggested that the Administration should make reference to Singapore which had exempted captive insurers from profits tax. Sharing the views, Mr Kenneth LEUNG urged the Administration to consider exempting the captive insurers from all profits tax in their first two years of operation in Hong Kong. The Chairman enquired about the major considerations of captive insurers, apart from tax concessions, to set up business in Hong Kong.

13. DS(FS)2 said that the Administration was aware that some financial centres offered more attractive tax concessions than that under the Administration's proposal. Nevertheless, the current proposal would serve as the first step to attract captive insurers to set up business in Hong Kong. The Administration would review the measure after one or two years of implementation, and consider whether further concessions would be necessary with due regard to the impact on tax revenue. The Administration would maintain an open mind on this subject. On Hong Kong's advantages in attracting captive insurers, DS(FS)2 said that comments from the insurance industry and Mainland companies interested to form captive insurers in Hong Kong indicated that the sound legal system, robust regulatory regime and availability of a wide range of professional services were major incentives for setting up business in Hong Kong. The proximity of Hong Kong to major Mainland cities and the policy support from the Central Government were also instrumental in making Hong Kong an attractive domicile for captive insurers. As the concept of captive insurance was still novel to many enterprises in Asia, the Administration considered it a priority to work with the industry in increasing market awareness and promoting utilization of captive insurance. The proposal in the 2013-14 Budget would act as a further impetus in attracting captive insurers to domicile in Hong Kong.

14. The Chairman noted that the captive insurer of the Mass Transit Railway Corporation Limited ("MTRCL") was domiciled in Bermuda. In line with the policy to attract companies to set up captive insurers in Hong Kong, she enquired whether the Government, as a major shareholder of MTRCL, would consider moving the domicile of MTRCL's captive insurer to Hong Kong. DS(FS)2 advised that each corporation had different considerations in choosing its risk management tools and the domicile of its captive insurer.

15. In response to the Chairman's enquiry about the benefit of the proposal in terms of employment opportunities for the local workforce, DS(FS)2 advised that, currently, there was one captive insurer domiciled in Hong Kong, which was a subsidiary of the China National Offshore Oil Corporation with some ten staff members when it was set up. The small staff size was due to the captive



insurer's decision to outsource captive insurance management service to an international insurance broker firm. With the establishment of more captive insurers in Hong Kong, it was envisaged that the pool of local professionals of related business would expand in future.

*Proposed increase in the deduction ceiling for contributions to recognized retirement schemes*

16. In reply to Mr WONG Kwok-hing, DS(FS)2 said that the proposed increase in the deduction ceiling for contributions made by employees or self-employed persons applied to all recognized retirement schemes including MPF schemes and qualified occupational retirement schemes.

17. Mr WONG Kwok-hing opined that in view of the ageing population of Hong Kong there was a need to enhance personal savings for better retirement protection, which could also alleviate the pressure on public expenditure on social welfare and health for the elderly. As such, he enquired whether the Administration would consider granting more tax concessions to encourage employees and self-employed persons to increase the voluntary contributions to their retirement schemes. He opined that tax concessions would be particular useful for the MPF schemes, as under such schemes the employers' mandatory contributions would be used to offset the severance payment or the long service payment, which would reduce the savings for the MPF scheme members. DS(FS)2 said that members could make suggestions on tax measures during the consultation on the 2014 Policy Address and the 2014-15 Budget. Mr WONG urged the Administration to give positive consideration on his suggestion.

**V The Asia-Pacific Economic Cooperation Finance Ministers' Meeting 2014**

(LC Paper No. CB(1)155/13-14(03) — Administration's paper on the Asia-Pacific Economic Cooperation Finance Ministers' Meeting 2014)

Briefing by the Administration

18. At the invitation of the Chairman, the Permanent Secretary for Financial Services and the Treasury (Financial Services) ("PS(FS)") briefed members on the background, justifications and details of the proposal to create two supernumerary directorate posts and a non-recurrent commitment of \$63.45 million for 2014-2015 for meeting the staffing and financial requirement for organizing the Finance Ministers' Meeting ("FMM") of the

Asia-Pacific Economic Cooperation ("APEC") in Hong Kong in September 2014 as set out in the Administration's paper.

Discussion

*Showcasing Hong Kong as an international financial and tourist centre*

19. Mrs Regina IP said that she was pleased that Hong Kong would organize the FMM which would enhance Hong Kong's status as an international financial and business centre. The Chairman and Mr Christopher CHEUNG shared a similar view. Mr CHEUNG said that the financial services industry in general was highly supportive to organizing the FMM in Hong Kong. Mr Andrew LEUNG and Mr Jeffrey LAM said that Members belonging to the Business and Professionals Alliance for Hong Kong supported the proposal.

20. Mr CHAN Kam-lam opined that Hong Kong could ride on Mainland's financial development in identifying more business opportunities for the local financial services industry. He enquired whether the Administration would leverage this opportunity to promote the financial and economic developments of Hong Kong. Mr Jeffrey LAM shared the view that Hong Kong should showcase to the FMM participants its strengths on various fronts, including financial services, trade and tourism.

21. Mr Andrew LEUNG considered that Hong Kong was an ideal place for holding the FMM given its status as an economic hub in the Asia-Pacific region and an offshore Renminbi ("RMB") business centre. As Hong Kong had agreed to pursue a bilateral free trade agreement with the Association of South East Asian Nations, Mr LEUNG opined that the FMM could promote Hong Kong's strengths in bringing trade opportunities and economic benefits to ASEAN member economies.

22. PS(FS) said that the Administration would step up its efforts along members' suggestions with a view to opening up more opportunities for Hong Kong in regional economic cooperation with Asian counterparts. For instance, the Administration would work with relevant agencies on suitable promotional initiatives. In particular, she considered that there was room for Hong Kong in expanding its RMB offshore business and promoting its financial platform for trade settlement in RMB. Hong Kong could strengthen links with overseas markets, in particular financial intermediary services which Hong Kong had a clear strength. The Administration would put forth suggestions to the Ministry of Finance of the Central Government and APEC Secretariat in formulating the agenda of the FMM. The tentative discussion topics might include global and regional economic outlook, cooperation on infrastructure financing in the

Asia-Pacific region, fiscal and taxation initiatives for economic restructuring, and development of financial services for supporting regional economy, etc.

23. Mrs Regina IP and Mr Jeffrey LAM suggested including sightseeing tours for participants of the FMM to visit Hong Kong's tourist attractions. PS(FS) said that the Administration would make use of the opportunity of FMM to showcase Hong Kong as a metropolitan city and a premier destination for MICE (i.e. meetings, incentive travels, conferences and exhibitions) and tourism. To this end, the Administration would work with the Hong Kong Tourism Board, the tourism sector and relevant government departments and public organizations to arrange cultural activities and hospitality programmes for attending ministers, delegates and their accompanying persons.

*Funding for organizing the FMM*

24. On the indicative breakdown of non-recurrent financial implications (other than the staff cost for the time-limited civil service posts) of the FMM in Annex F of the Administration's paper, Mr Kenneth LEUNG noted that some \$16 million was earmarked for the item of hotel accommodation, hospitality, promotion, and preparatory visits. He enquired about the basic assumptions for working out the estimate, such as the estimated number of participants of the FMM with hotel accommodation sponsored by Hong Kong, and requested the Administration to provide a detailed breakdown of the estimate for members' information.

25. Pointing out that the expenditure on hotel accommodation and other hospitality arrangements for all the participants of the International Mathematical Olympiad organized in Hong Kong would be met by the Government, Mrs Regina IP enquired about the expenditure arrangement on hotel accommodation and other hospitality arrangements for participants of the FMM, including the spouses of the finance ministers and other accompanying persons.

26. PS(FS) said that with reference to previous FMMs, there would be about 800 visitors, including finance ministers, delegates of member economies and their accompanying persons, relevant officials from international organizations, attending the FMM. The estimates in Annex F were prepared with reference to past experiences in organizing international meetings/events, such as the World Bank/International Monetary Fund ("IMF") Annual Meetings in September 1997, the sixth ministerial conference of the World Trade Organization ("WTO") in December 2005, and the International Telecommunications Union Telecom World 2006. The Administration would include a more detailed breakdown in the discussion

paper for seeking the Finance Committee ("FC")'s approval on the staffing and funding proposals in December 2013.

27. As regards accommodation arrangement, PS(FS) advised that participants of the FMM would include the finance ministers and relevant senior officials of the 21 APEC member economies, high-level officials of observing international organizations (such as the World Bank, IMF and the Asian Development Bank), and their accompanying persons. In line with APEC practice, appropriate complimentary accommodation, transport and security arrangement would be provided for the attending finance ministers and their spouses, heads of the observing international organizations, and APEC Secretariat senior staff. In addition, Hong Kong would arrange a welcoming reception and dinner, and working lunches for ministers and delegates. The expenses for accommodation of other delegates and accompanying persons would be met by the respective member economies and international organizations. The Administration would liaise with local hotels to facilitate reservation of rooms by these parties.

28. Mr Kenneth LEUNG noted that about \$5 million would be spent on transportation for the FMM, including the cost of chauffeur-driven limousines for the attending finance ministers (i.e. item 5 of Annex F of the Administration's paper). He asked whether the Administration would seek sponsorship in providing the limousines and explore the feasibility of using electric vehicles to showcase Hong Kong as an environmental-friendly city.

29. Mr Andrew LEUNG said that the Administration could make reference to the transportation arrangements for the participants of previous international meetings/events held in Hong Kong (e.g. conference of WTO and the Olympic equestrian events), and consider seeking sponsorship. As FMM was a first-class international meeting, Mr Jeffrey LAM opined that the Administration should devote sufficient resources to make the best arrangements as appropriate and necessary.

30. PS(FS) advised that the Administration would take into account the transportation arrangements for international meetings/events previously organized by Hong Kong, and would make appropriate arrangements at reasonable costs. As regards the provision of chauffeur-driven limousines, the Administration would consider members' suggestions.

31. Mr Kenneth LEUNG said that the Administration should provide supplementary information in the paper to be submitted to FC as follows –

- (a) detailed indicative breakdown of the expenditure on "Hotel accommodation, hospitality, promotion, and preparatory visits";
- (b) the basic assumptions for working out the expenditure in (a) above; and
- (c) details of the transportation arrangements for accompanying persons other than the spouses of the finance ministers, including whether chauffeur-driven limousines would be used for their transportation.

32. In reply to the Chairman, PS(FS) said that a dedicated Event Coordination Team ("ECT"), comprising officers from the Financial Services Branch ("FSB") of the Financial Services and the Treasury Bureau ("FSTB") and the Information Services Department, would be set up to formulate all arrangements for the FMM. An inter-departmental taskforce would be established to coordinate various areas of work and facilitate the organization of the event. In addition, the Hong Kong Police Force ("the Police") would set up a Police Planning Team to assist ECT in planning and implementing security arrangements.

*Security arrangement of the FMM*

33. In response to Mr Albert HO's enquiries, PS(FS) said that the annual Economic Leaders' meeting of APEC would be preceded by a series of important meetings including the FMM and other meetings on different policy areas. The finance ministers of APEC member economies would usually participate in the FMM.

34. In view of the public discussion on the constitutional reform and universal suffrage in Hong Kong, Mr Albert HO expressed concern that mass demonstrations or public order events might be held near the FMM venue or neighbouring districts during the meeting period. He asked about the Administration's risk assessment on this matter, and related security arrangements for the FMM. Mr HO remarked that, in order to minimize political instability and social conflicts, universal suffrage should be implemented as early as possible.

35. Mr CHAN Kam-lam considered that it was an honour for Hong Kong to organize the FMM and stressed the importance for the Administration to ensure that all events of the FMM would be held in a safe and smooth manner. He cautioned that it would be inappropriate for any parties to make use of the FMM in pursuing political objectives otherwise it would have adverse impact on Hong Kong's international image. Nevertheless, he noted that the Police had the capability and experiences in handling large-scale events and maintaining public order.

36. Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Christopher CHEUNG shared a similar view and urged the Administration to ensure smooth running of the FMM without compromising convenience of the daily and routine activities of the public at large. Mr CHEUNG expressed concern that any acts to disrupt the public order in Hong Kong would harm its economy and financial market, and undermine its status as an international financial centre.

37. PS(FS) said that the Administration would leverage past experiences in organizing large-scale international meetings or mega events in Hong Kong in formulating the detailed arrangements for the FMM, including conducting thorough risk assessment, coordinating with the relevant bureaux and departments, and disseminating information to the public about the event arrangements. She was confident that the Police, which was experienced in security operations, would make the necessary arrangements to ensure security and public safety for all FMM events.

*Increasing local awareness of APEC and its work*

38. The Chairman suggested that FSTB should collaborate with the Home Affairs Bureau and the Education Bureau to promote the FMM to the general public and students to enhance their understanding of APEC's role in the Asia Pacific region, and Hong Kong's role in APEC. Also, consideration should be given for students to participate in activities of the FMM where possible. PS(FS) responded that the Administration would consider inviting students to participate in the cultural and hospitality programmes to be arranged for participants of the FMM. The Administration would also collaborate with various bureaux and departments in disseminating information on the FMM. Relevant information would be available at the relevant government websites.

## Conclusion

39. Concluding the discussion, the Chairman said that members in general supported the staffing and financial proposals for organizing the FMM, and invited the Administration to take into account members' views and suggestions in related promotional activities.

## **VI Proposed retention of a supernumerary directorate post in the Mainland Affairs Division of the Financial Services Branch of the Financial Services and the Treasury Bureau**

(LC Paper No. CB(1)155/13-14(04) — Administration's paper on retention of a supernumerary directorate post in the Financial Services Branch of the Financial Services and the Treasury Bureau for implementation of initiatives to advance financial co-operation with the mainland and international commitments to strengthen financial regulation and maintain financial system stability

LC Paper No. CB(1)155/13-14(05) — Background brief on retention of a supernumerary directorate post in the Mainland Affairs Division of the Financial Services Branch of the Financial Services and the Treasury Bureau prepared by the Legislative Council Secretariat)

## Briefing by the Administration

40. At the invitation of the Chairman, the Deputy Secretary for Financial Services and the Treasury (Financial Services)1 ("DS(FS)1") briefed members on the proposal to retain a supernumerary directorate post in the Mainland

Affairs Division of FSB of FSTB for a period of two years to provide policy support for the implementation of initiatives to advance financial co-operation with the Mainland, and for international commitments to strengthen financial regulation and maintain financial system stability. The proposed post would be re-titled from Principal Assistant Secretary (Financial Services) Mainland Affairs ("PAS(FS)MA") to Principal Assistant Secretary (Financial Services) International and Mainland Affairs ("PAS(FS)IMA"). Subject to members' views, the Administration planned to seek the recommendation of the Establishment Subcommittee ("ESC") on the proposal in December 2013 and approval from FC in January 2014.

### Discussion

41. Mr CHAN Kam-lam, Mr CHAN Kin-por, Mr Jeffrey LAM, Mr Christopher CHEUNG and the Chairman expressed support for the staffing proposal.

#### *The need for a permanent post to handle Mainland issues*

42. Pointing out that financial co-operation between Hong Kong and the Mainland had been increasingly close in particular with implementation of economic measures such as the establishment of the Shanghai Pilot Free Trade Zone and that currently FSB of FSTB did not have a permanent PAS fully dedicated to oversee the policy portfolio of Mainland financial affairs, Mr CHAN Kam-lam considered that the Administration should consider converting the supernumerary post into a permanent one. Mr Kenneth LEUNG, Mr CHAN Kin-por, Mr Jeffrey LAM and the Chairman concurred that the Administration should consider creating a permanent post for the job given that the tasks to be discharged by PAS(FS)IMA were of on-going nature. Mr CHAN Kin-por opined that the Administration should conduct a holistic review of the duties of PASs in FSB. Mr Jeffrey LAM enquired whether there would be changes in the duties of other PASs in FSB if the proposed post was made permanent and how the Administration would conduct manpower planning for FSB in the long term.

43. DS(FS)1 said that the Administration had been adopting a prudent approach in the creation and extension of permanent and supernumerary directorate posts and exercising vigilance in containing the overall size of the civil service. She concurred with members' views that financial co-operation with the Mainland was an on-going task and said that the Administration would review the need of turning the supernumerary post permanent before the lapse of the two-year period taking into account the work of the post and other PASs in FSB in a holistic manner.



*Major tasks of the post holder*

44. Mr Kenneth LEUNG enquired about the major tasks of PAS(FS)IMA in the coming two years. DS(FS)1 advised that in addition to the present duties of enhancing financial co-operation with the Mainland, co-ordinating the implementation of financial measures and promoting the development of offshore RMB centre, PAS(FS)IMA's work would be extended to include the development of a cross-sector resolution regime for financial institutions in times of financial crisis and providing policy support for the implementation of international commitments to strengthen financial regulation and maintain financial system stability. As for tasks relating to financial co-operation with the Mainland, DS(FS)1 highlighted that the major duties of PAS(FS)IMA would include formulating policy initiatives and coordinating matters in respect of enhancing Hong Kong's role as an offshore RMB centre, such as promoting innovation in offshore RMB products to cater for the needs of different investors against the backdrop of relaxation of the investment rules governing the RMB Qualified Foreign Institutional ("RQFII"); reinforcing the existing regional cooperation platforms covering Hong Kong/Guangdong, Hong Kong/Shanghai and Hong Kong/Shenzhen (including Qianhai) to enhance financial cooperation with the Mainland; and formulating policy initiatives and coordinating matters on advancing Hong Kong's financial cooperation with the Mainland under the Mainland and Hong Kong Closer Economic Partnership Arrangement ("CEPA"), including those set out in Supplement X to CEPA.

45. In response to Mr Kenneth LEUNG's enquiry about the task to pursue the arrangement for mutual recognition of funds between Hong Kong and the Mainland (i.e. paragraph 11 of the Administration's paper), DS(FS)1 advised that the task would be among the duties of PAS(FS)IMA. As regards involvement of the Administration and Securities and Futures Commission ("SFC") in the task, she said that SFC would liaise with the China Securities Regulatory Commission while the Administration would provide relevant policy support. Indeed, the subject of mutual recognition of funds between Hong Kong and the Mainland was included in Supplement X to CEPA.

46. On Mr CHAN Kin-por's enquiry about the major work of PAS(FS)MA in the past two years, DS(FS)1 said that since the announcement in August 2011 by the Central Government on the various measures to support the economic and social development of Hong Kong, significant progress was seen in various areas. For instance, a number of measures had been implemented to promote the development of Hong Kong's offshore RMB business, including issuance of RMB bonds of various maturities by the Ministry of Finance in Hong Kong on a regular basis, diversification of offshore RMB products (such as increasing the amount of RQFII to RMB 270 billion), and establishing a

mechanism for the repatriation of RMB from Hong Kong to the Mainland. Moreover, a number of measures were included in CEPA to facilitate financial cooperation between Hong Kong and the Mainland.

*Support measures for securities companies in Hong Kong*

47. Mr Christopher CHEUNG pointed out that while Supplement X to CEPA had included a number of measures on enhancing cooperation between securities companies of Hong Kong and the Mainland, the relevant details like capital requirement and mutual recognition of the financial professional qualifications by the relevant Hong Kong and the Mainland authorities were not yet available. He further expressed concern that the relatively stringent requirements (like the capital requirement) on the establishment of full-licensed joint venture securities companies in the Mainland under CEPA had posed obstacle for Hong Kong's small and medium-sized securities companies in accessing the Mainland market. He called on the Administration to tackle the issues.

48. DS(FS)1 responded that there were two important measures for the Hong Kong securities industry under Supplement X to CEPA, namely to allow Hong Kong-funded financial institutions which met the requirements for establishing foreign-invested securities companies to set up one full-licensed joint venture securities company each in Shanghai, Guangdong Province and Shenzhen, and to raise the maximum percentage of aggregate shareholding of the Hong Kong-funded institutions from 49% to 51%. DS(FS)1 pointed out that these measures would facilitate further access of Hong Kong's financial services industry into the Mainland market. She added that the Administration would endeavour to relay Mr Christopher CHEUNG's views to the relevant Mainland authorities for consideration in drawing up the implementation details.

*Impacts of the establishment of free trade zones in the Mainland on Hong Kong*

49. The Chairman enquired whether the Administration had assessed impacts of the establishment of the Shanghai Pilot Free Trade Zone as well as the proposal for Hong Kong, Guangdong and Macao to set up a free trade zone, on Hong Kong's financial sector. Noting that the Shanghai Pilot Free Trade Zone involved both trade and financial issues, the Chairman called on FSTB to collaborate closely with the Commerce and Economic Development Bureau in formulating appropriate policies and measures.

50. DS(FS)1 responded that issues relating to the Shanghai Pilot Free Trade Zone straddled a number of policy portfolios and bureaux, and

PAS(FS)IMA's duties would include formulating policy initiatives and coordinating financial matters relating to the Free Trade Zone. She pointed out that while Hong Kong's advantages included an established market infrastructure for the development of offshore RMB business, it would be important for Hong Kong to continue strengthening its financial capabilities in order to enhance its competitiveness and maintain its status as an international financial centre. Further development in Hong Kong's RMB business would provide more opportunities for financial cooperation between Hong Kong and other provinces/municipalities of the Mainland.

### Conclusion

51. The Chairman concluded that members supported the Administration submitting the staffing proposal for consideration of ESC.

## **VII Creation of one permanent directorate post to support initiatives of expanding the network of exchange of information arrangements of Hong Kong and one supernumerary directorate post to cope with the increase in volume and complexity of work at the Stamp Office of the Inland Revenue Department**

(LC Paper No. CB(1)155/13-14(06) — Administration's paper on Creation of One Permanent Chief Assessor Post in the Tax Treaty Section and One Supernumerary Chief Assessor Post in the Stamp Office of the Inland Revenue Department

LC Paper No. CB(1)155/13-14(07) — Background brief on creation of a permanent directorate post to support initiatives of expanding the network of exchange of information arrangements of Hong Kong and a supernumerary directorate post to cope with the increase in volume and complexity of work at the Stamp Office of the Inland Revenue Department prepared by the Legislative

## Council Secretariat)

Briefing by the Administration

52. At the invitation of the Chairman, the Commissioner of Inland Revenue ("CIR") briefed members on the Administration's proposal to create one permanent directorate post of Chief Assessor ("CA") in the Tax Treaty Section ("TT Section") of the Inland Revenue Department ("IRD") for implementation of a number of initiatives in relation to tax treaties in Hong Kong; and one supernumerary directorate post of CA in the Stamp Office ("SO") of IRD for three years to strengthen support at the directorate level and to enhance SO's capacity in the provision of support services for the implementation of various policy initiatives. Subject to members' views, the Administration planned to seek the recommendation of ESC on the proposal in January 2014 and approval from FC in February 2014.

Discussion*Manpower of TT Section and SO*

53. Mr CHAN Kam-lam indicated support for the proposal. He enquired about the number of existing supernumerary directorate posts in TT Section and whether the Administration had plan to create more supernumerary posts in IRD in the near future. Mr Kenneth LEUNG enquired about IRD's plans to strengthen support for the CA in TT Section, and whether IRD had encountered any problem in the succession of directorate officers.

54. CIR responded that there was one supernumerary CA post in TT Section and the current staffing proposal was to turn this post into a permanent one. He advised that the establishment of TT Section had been increased in recent years in coping with the increasing workload. Currently, IRD had no plan to create new Senior Assessor ("SA") posts in TT Section but would keep in view the manpower needs of the section and consider plans to strengthen its manpower if necessary.

55. On the establishment of SO of IRD, Mr Kenneth LEUNG said that he was aware of concerns that SO had been suffering from manpower shortage which had impacted on its work. He enquired about the non-directorate support in SO. CIR advised that paragraph 25 of the Administration's paper had set out the proposed non-directorate support for the CA in SO. The plan in 2014-2015 was to create eight permanent posts comprising one SA, one Assessor, two Assistant Assessors ("AA") and four Assistant Taxation Officers ("ATO"). CIR added that the existing staff had been sharing the increasing workload of SO.

56. In response to Mr Kenneth LEUNG's enquiry, CIR advised that the two CA posts in TT Section and SO would be filled by internal promotion which would be in line with the established arrangement where posts at CA, SA and Assessor ranks would be filled by internal promotion while posts at AA and ATO ranks would be filled by open recruitment.

*Negotiation and implementation of comprehensive avoidance of double taxation agreements*

57. On the responsibilities of the new CA in TT Section (i.e. Annex D of the Administration's paper), Mr Kenneth LEUNG asked whether they would include negotiation work on comprehensive avoidance of double taxation agreements ("CDTAs") between Hong Kong and other jurisdictions. He also sought information on the number of dispute cases resolved through mutual agreement procedure and arbitration under CDTAs and the number of applications on advance pricing arrangement in connection with transfer pricing handled by IRD.

58. CIR responded that the new CA in TT Section would lead Hong Kong's negotiations in CDTAs or Tax Information Exchange Agreements with other jurisdictions and be responsible for formulating the negotiation strategies concerned. As regards dispute cases under CDTAs, CIR said that there was only one case resolved through the mutual agreement procedure. He added that some of the CDTAs had included a provision on arbitration but no such case had been processed so far. Concerning advance pricing arrangement, CIR said that IRD had received three formal applications and all had been accepted for further processing after assessment.

59. Mr NG Leung-sing enquired whether the Administration had plans to conduct CDTA negotiations with free trade zones including those formed in the Mainland like the Shanghai Pilot Free Trade Zone, and how IRD had worked out the target for CDTA negotiations in the coming year.

60. CIR explained that a CDTA should be signed by two jurisdictions. However, a free trade zone formed in the Mainland would be part of the Mainland but not a separate jurisdiction. Hong Kong had already signed a CDTA with the Mainland in 2006. Regular meetings were held with the Mainland's State Administration of Taxation to discuss double taxation issues, including those relating to Mainland's free trade zones, if any, in due course. CIR further advised that in formulating the CDTA negotiation strategies, the Administration would assess the benefits for Hong Kong, in consultation with relevant stakeholders, such as chambers of commerce and professional bodies, and then initiate negotiations with the jurisdictions concerned. Among the

29 CDTAs that Hong Kong had signed so far, 11 were Hong Kong's top 20 trading partners. The Deputy Secretary for Financial Services and the Treasury (Treasury) 2 ("DS(Tsy)2") supplemented that the proposed schedule of CDTA negotiations had been worked out with reference to the views of relevant stakeholders and the Joint Liaison Committee on Taxation. For 2014, the Administration planned to hold on average one round of negotiations every two months with a view to seeking to conclude at least six more CDTAs.

61. In response to the Chairman's enquiry, CIR said that so far IRD had not made any exchange of information ("EoI") request to its CDTA partners. He added that IRD had put in place procedures for handling EoI requests from CDTA partners, including the collection of requested information under the EoI requests. Parties requested by IRD to provide information for an EoI request could be the subject person (i.e. the taxpayer concerned) or a third party (i.e. the information holder which possessed the requested information on the subject person). The subject person and the third party could be individuals or companies.

*The demand-side management measures to address the overheated property market*

62. Mr Kenneth LEUNG noted that the duties of the supernumerary CA post in SO included implementation of the proposed stamp duty measures to address the overheated property market which were incorporated in the Stamp Duty (Amendment) Bill 2012 and the Stamp Duty (Amendment) Bill 2013. As the two bills were still under scrutiny by the Legislative Council, Mr LEUNG enquired about the number of outstanding stamp duty cases concerned.

63. CIR responded that SO had to re-visit all relevant property transactions for ascertaining their stamp duty liability upon enactment of the two bills. It was envisaged that the number of outstanding cases would be high. Referring to paragraph 20 of the Administration's paper which set out the relevant figures for members' reference, DS(Tsy)2 supplemented that SO had to re-visit no less than 55 000 transactions for residential properties and no less than 16 000 transactions for non-residential properties since November 2012 and March 2013 respectively.

64. Mr James TIEN said that Members belonging to Liberal Party ("LP") would not support the creation of the CA post in SO given its stance of opposing the proposed stamp duty measures to address the overheated property market (i.e. the enhanced Special Stamp Duty, Buyer's Stamp Duty and the enhanced ad valorem stamp duty).

65. DS(Tsy)2 stressed that the CA in SO would not only be involved in the implementation of stamp duty measures to address the overheated property market but also provide directorate support for a number of policy initiatives, including implementation of a comparable taxation framework for Islamic bonds (i.e. sukuk) vis-à-vis conventional bonds, implementation of the betting duty arrangement for two-way commingling for horse races in Hong Kong, introduction of scripless securities and the formulation of levy collection arrangement to fund the proposed Property Management Services Authority, etc. DS(Tsy)2 appealed for support of Mr James TIEN and other Members belonging to LP on the staffing proposal. In response to Mr TIEN's enquiry, DS(Tsy)2 advised that based on the proposed job portfolio, it was estimated that about 20% of the duties of the CA in SO would be relating to the supervision of SO in implementing stamp duty measures. Noting the Administration's response, Mr TIEN remarked that LP would further consider its position on the staffing proposal.

### Conclusion

66. The Chairman concluded that members did not oppose the Administration to submit the staffing proposal for consideration of ESC.

### **VIII Any other business**

67. There being no other business, the meeting ended at 11:03 am.