立法會
Legislative Council

LC Paper No. CB(1)844/14-15
(These minutes have been seen by the Administration)

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Panel on Financial Affairs

Minutes of meeting
held on Monday, 2 March 2015 at 10:45 am
in Conference Room 1 of the Legislative Council Complex

Members present :	Hon CHAN Kin-por, BBS, JP (Chairman) 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 WONG Ting-kwong, SBS, JP Hon Starry LEE Wai-king, JP Hon James TIEN Pei-chun, GBS, JP Hon NG Leung-sing, SBS, JP Hon SIN Chung-kai, SBS, JP
Members absent :	Hon Christopher CHEUNG Wah-fung, SBS, JP (Deputy Chairman) Hon Albert HO Chun-yan Hon Ronny TONG Ka-wah, SC Hon Mrs Regina IP LAU Suk-yee, GBS, JP Hon Kenneth LEUNG Hon Dennis KWOK
Public officers attending :	Agenda item IV Mr James LAU, JP Under Secretary for Financial Services and the Treasury

Ms Sandra LAM
Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) International and Mainland Affairs

Mr Tony CHAN Sun-hung
Acting Assistant Commissioner of Insurance (Policy and Development)

Ms Karen KEMP
Executive Director (Banking Policy)
Hong Kong Monetary Authority

Ms Alice CARR
Senior Manager (Banking Policy)
Hong Kong Monetary Authority

Agenda item V

Miss Susanna LAI
Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)3

Attendance by invitation : Agenda item IV

Mr Eugène GOYNE
Senior Director (Enforcement)
Securities and Futures Commission

Ms TAN Poh-hiang
Senior Manager (Supervision of Markets)
Securities and Futures Commission

Agenda item V

Mr Darren McSHANE
Chief Regulation and Policy Officer and Executive Director
Mandatory Provident Fund Schemes Authority

Ms Gabriella YEE

Head (Policy Development and Research)
Mandatory Provident Fund Schemes Authority

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

Staff in attendance : Mr YICK Wing-kin
Assistant Legal Adviser 8

Ms Angel SHEK
Senior Council Secretary (1)4

Ms Sharon CHAN
Legislative Assistant (1)4

Action

I Information papers issued since the last meeting

(LC Paper No. CB(1)529/14-15(01) — Fourth quarterly report of 2014 on "Employees Compensation Insurance — Reinsurance Coverage for Terrorism"

LC Paper No. CB(1)571/14-15 — Quarterly Report of the Securities and Futures Commission (October to December 2014))

Members noted the information papers issued since the last regular meeting held on 2 February 2015.

II Date of next meeting and items for discussion

(LC Paper No. CB(1)567/14-15(01) — List of outstanding items for discussion

LC Paper No. CB(1)567/14-15(02) — List of follow-up actions)

Items for discussion at the regular meeting in April 2015

2. Members agreed to discuss the following items proposed by the Administration at the next regular meeting scheduled for 13 April 2015:

(a) Securities and Futures (Amendment) Bill 2015; and

(b) updates on Financial Services Development Council.

Issues relating to HSBC Holdings Plc

3. Mr WONG Kwok-hing expressed concern about alleged cases of tax evasion associated with the top management of HSBC Holdings Plc and assistance of its subsidiaries in helping clients in tax evasion and money laundering matters. Given the status of Hongkong and Shanghai Banking Corporation Limited ("Hong Kong Bank") (a company of the HSBC Group) as a major note-issuing bank in Hong Kong, a large financial institution in Hong Kong with many customers and a company listed on the Stock Exchange of Hong Kong, as well as the possible adverse impacts of these scandals on the operation of Hong Kong Bank, Mr WONG urged that the Administration should ensure the protection of interest of Hong Kong investors and bank customers. He proposed that the Panel should invite the Administration to brief members on the issues concerned. The Chairman suggested and members agreed to invite the Administration to provide a written response for members' consideration.

(*Post-meeting note*: The Administration's written response was circulated on 30 March 2015 vide LC Paper No. CB(1)689/14-15(01).)

III Proposal from the Panel on Manpower to form a joint subcommittee to study the arrangement of offsetting severance payments and long service payments

(LC Paper No. CB(1)567/14-15(03) — Referral memorandum from the Clerk to Panel on Manpower on the proposal to form a joint subcommittee to study the arrangement of offsetting severance payments and long service payments)

4. The Chairman consulted members on the proposal from the Panel on Manpower to form a joint subcommittee with the Panel on Financial Affairs to

study the current arrangement of allowing employers to use the Mandatory Provident Fund ("MPF") benefits from their contributions to offset the severance payment and the long service payment ("the offsetting arrangement").

5. Mr WONG Kwok-hing and Mr SIN Chung-kai expressed support for the proposal as the subject matter concerned was under the purview of two bureaux, i.e. the Financial Services and the Treasury Bureau and the Labour and Welfare Bureau, and straddled the policy areas of the two Panels.

6. No members present at the meeting raised objection to the proposal. The Chairman concluded that the Panel agreed to form a joint subcommittee with the Panel on Manpower to study the offsetting arrangement.

7. At the invitation of the Chairman, the Clerk said that there were currently ten subcommittees on policy issues formed under Panels or the House Committee in operation, and the joint policy subcommittee to study the offsetting arrangement would be on the third place of the waiting list. It was envisaged that there would be a vacant slot by March or June 2015 at the earliest for one subcommittee on policy issues on the waiting list to commence work.

IV Second stage of public consultation on establishing an effective resolution regime for financial institutions in Hong Kong

(LC Paper No. CB(1)567/14-15(04) — Administration's paper on "Second Stage of Public Consultation on Establishing an Effective Resolution Regime for Financial Institutions in Hong Kong")

Briefing by the Administration

8. With the aid of a powerpoint presentation, the Under Secretary for Financial Services and the Treasury ("USFST") briefed members on the second stage of public consultation on establishing an effective resolution regime for financial institutions ("FIs") in Hong Kong ("the resolution regime").

(*Post-meeting note*: The notes of the powerpoint presentation (LC Paper No. CB(1)602/14-15(01)) were issued to members vide Lotus Notes e-mail on 2 March 2015.)

Discussion

Scope of the resolution regime and compliance costs

9. The Chairman noted that according to the Administration's paper, 30 banks and nine insurers were identified as global systemically important banks ("G-SIBs") and global systemically important insurers ("G-SIIs") respectively. Among them, 29 G-SIBs and eight G-SIIs which currently had operations in Hong Kong would be under the scope of the resolution regime. He enquired how G-SIBs and G-SIIs were identified. USFST said that G-SIBs and G-SIIs were identified by the Financial Stability Board ("FSB"), of which Hong Kong was a member jurisdiction, in consultation with the relevant international bodies such as the Basel Committee on Banking Supervision, International Organization of Securities Commissions and International Association of Insurance Supervisors.

10. Mr WONG Kwok-hing supported the proposal to include in the scope of the resolution regime all authorized institutions ("AIs") within the meaning of the Banking Ordinance (Cap. 155), most financial market infrastructures designated under the Clearing and Settlement Systems Ordinance (Cap. 584), clearing houses recognized under the Securities and Futures Ordinance (Cap. 571), certain licensed corporations, and certain insurers. Mr WONG enquired whether financial companies undertaking money lending business would also be captured by the resolution regime in view of the high risks posed by their business on the local financial market, in particular refinancing of residential mortgage loans.

11. The Executive Director (Banking Policy), Hong Kong Monetary Authority ("ED/HKMA") said that the resolution regime would capture FIs which were considered systemically significant or critical in the sense that, in the unlikely event they were to fail, they could pose risk to the continuity of critical financial services and financial stability. It was considered that all AIs should fall under the scope of the resolution regime having regard to the fact that any cessation of AIs' services could potentially be detrimental to the interests of their depositors and operation of related payment/settlement systems. ED/HKMA further said that under the current assessment, money lenders (which were not AIs) would not be captured by the resolution regime as they were not considered systemically significant.

12. Mr NG Leung-sing expressed concern about the broad scope of the resolution regime if all AIs were included, given that the regime should target non-viable FIs which were "too big to fail". Besides, an unduly large coverage might call for more regulatory resources and increase compliance costs on AIs.

He stressed the need for the Administration to strike a balance in implementing the resolution regime, with a view to reducing the compliance costs on AIs, in particular the small and medium-sized AIs.

13. ED/HKMA advised that while some AIs were evidently systemically significant, relatively smaller AIs, depending on the prevailing market conditions, could also pose risk to the continuity of critical financial services and financial stability should they fail. As such, the current proposal was to bring all AIs under the scope of the resolution regime, which was in line with the international practice. ED/HKMA stressed however that resolution would not be triggered automatically if an FI failed. The resolution authority concerned would assess whether the failing FI would pose a threat to financial stability before initiating a resolution.

14. As regards the potential compliance costs on FIs (including AIs), ED/HKMA envisaged that the impact would be commensurate with the scale and complexity of the operations of individual FIs. For instance, it would be more likely that larger and more complex FIs would be required to provide more information for resolution planning and resolvability assessment than smaller AIs whose business tended to be simpler. FIs which were relatively larger or complex would also be more likely to be affected by the resolution authority's powers to require them to remove any substantive barriers to their orderly resolution, as such barriers tended to be generated from the way in which FIs were structured and operated.

15. The Chairman observed that the financial crisis in 2008 and the Lehman Brothers incident had triggered a series of international regulatory reform initiatives (including the setting of new international standards for effective resolution regimes) to enhance the resilience and stability of the local and global financial systems. He cautioned that the Administration should be mindful of the increasing compliance costs on the financial services industry. Mr NG Leung-sing was of the view that the financial regulators should review on a regular basis whether there was room for streamlining or removing reporting requirements on FIs arising from various regulatory initiatives so as to minimize compliance costs on the financial services industry and intermediaries.

16. USFST advised that the financial regulators participated from time to time in the discussions and review of relevant international regulatory initiatives. The regulators generally agreed that the regulatory requirements on FIs should be proportionate to their scale of operation, and be reviewed regularly to identify room for streamlining or removing those requirements where appropriate.

Funding model for meeting resolution costs

17. Mr SIN Chung-kai observed that the United States adopted an ex post funding model to recover from the wider financial market any excess resolution costs that could not be imposed on or met by the failing FI (and its shareholders and creditors). Whereas the European Union Member States were required to make ex ante provision. Noting the Administration's current thinking to proceed on the basis of the ex post funding model, Mr SIN expressed concern about the potential moral hazard associated with this model, i.e. the failing FI was not required to contribute to the resolution costs upfront, but the surviving FIs were to pay the costs of resolving the failing FI. He considered it fairer and more appropriate to require all FIs captured by the resolution regime to duly bear their risk of failure by making contributions before a resolution. Moreover, as compared to ex post recovery, ex ante provision might lower compliance costs on the industry. As regards the rate of the ex-ante levy, Mr SIN suggested that it could be determined taking into account, among other factors, the number of FIs captured by the resolution regime.

18. ED/HKMA pointed out that each funding model had pros and cons. While the ex post funding model could give rise to moral hazard, the majority of respondents to the public consultation favoured this model on consideration that it would be inefficient to establish a fund with ex ante contributions which would not be utilized until a resolution was triggered. Moreover, there would be difficulties in determining the amount of provision from FIs in advance of a resolution as it was not possible to predict likely resolution costs in advance. USFST supplemented that the resolution regime would only be used where an "in-scope" FI was assessed to be non-viable, and that its failure could pose systemic risks to the stability of the wider financial system. Under the current proposal of ex post funding arrangement, individual FIs, large or small, would need to make ex post contributions to the resolution costs of other FIs at some point in time.

19. The Chairman suggested that the Administration should explore other possible funding models, including combination of different approaches, such as allowing for a call on a resolution fund and then collecting ex post levy to recoup any additional costs arising from a resolution. The Chairman enquired whether the funding arrangement for meeting resolution costs would be independent of the future levy on insurers for the Policyholders' Protection Fund ("PPF") proposed to be set up to protect policyholders in the event of insolvency of insurers. He cautioned the Administration against introducing new levies indiscriminately as the resulting increase in the financial burden on the industry would only be passed onto the consumers.

20. The Acting Assistant Commissioner of Insurance (Policy and Development) said that there would not be any overlap between the two funding arrangements since PPF would not be deployed for funding the resolution regime. The levies on the insurance industry for meeting the resolution costs of a failing insurer were proposed to be raised ex post, and only when any excess resolution costs could not be imposed on or met by the failing insurer.

21. Mr SIN Chung-kai enquired how the resolution authorities could impose costs on a failing FI including its shareholders and creditors in recovering the resolution costs, and whether there would be requirement on the FI's shareholders to buy new issued shares of the FI in order to raise capital for meeting such costs.

22. ED/HKMA said that resolution authorities could pursue resolution options, such as a statutory bail-in for a failing FI under which the authorities would be empowered to write off debt of the FI, and divest the shareholders of their shares. However, the powers of the resolution authorities would not go beyond the scope of shareholders' "limited liability", in the sense of empowering the resolution authority to require shareholders to buy more shares. Creditors and shareholders of a failing FI could ultimately only be called upon to contribute to the costs of resolution up to the point to which they would have borne losses had the FI entered liquidation, i.e. "no creditor worse off than in liquidation".

Governance arrangements and safeguards

23. Mr NG Leung-sing noted that a resolution authority under the resolution regime would be required to consult the Financial Secretary ("FS") before initiating resolution of a failing FI, whereas the lead resolution authority ("LRA") would assume an ultimate decision-making role among the sectoral resolution authorities concerned. Mr NG expressed concern that these two governance arrangements appeared to be contradictory.

24. USFST explained that consultation with FS would always be required before triggering the resolution of a failing FI. The proposals for LRA were designed to deliver an adequate degree of coordination among the sectoral resolution authorities in resolving cross-sector groups by ensuring that LRA would take up the ultimate decision-making role if a consensus could not be reached among the sectoral resolution authorities. These arrangements were in line with the requirements under the "Key Attributes of Effective Resolution Regimes for Financial Institutions" published by FSB that a resolution authority should be operationally independent and that there should be an LRA to ensure effective coordination between sectoral resolution authorities.

25. Mr NG Leung-sing noted from paragraph 24 of the Administration's paper that a resolution authority would be able to depart from the equal treatment of creditors in the same class in resolution on condition that the departure could be justified against the objectives for resolution. He enquired about the objective criteria for a resolution authority in this regard, and the ultimate authority, if any, to judge whether the departure was indeed justified.

26. ED/HKMA advised that basically, the resolution authority should respect the statutory creditor hierarchy when imposing losses on the shareholders and creditors of an FI in resolution. However, the Key Attributes recognized that in certain circumstances (an example might be bail-in of liabilities under derivatives contracts) where, without departing from the equal treatment of creditors, it might not be possible for the resolution authority to carry out resolution in a way that best delivered against the objectives set. In the case of derivatives, this might be because the bail-in of derivatives contracts might be too complex to achieve expeditiously or might adversely affect sentiment in the markets, jeopardize hedging and other arrangements and create the type of panic that resolution sought to avoid. Therefore, it was proposed that a resolution authority could exercise judgment on whether it should depart from the equal treatment principle in this type of circumstance. ED/HKMA added that there would be safeguards under the proposed regime to ensure that no creditor would be worse off than in liquidation.

Protection of interests of employees

27. Mr WONG Kwok-hing enquired about protection for interests of employees of an FI in resolution, such as the order of priority for employees in the creditor hierarchy and the treatment of employees' outstanding entitlements (including wages and MPF accrued benefits), to ensure that the employees concerned would be no worse off than in liquidation.

28. ED/HKMA said that compared to liquidation, the resolution regime could better protect the interests of employees by securing stabilization and continuity of some or all of the business of a failing FI so that the employees concerned could continue under employment. If a resolution should ultimately result in liquidation of some of the FI's business, affected employees belonging to the liquidated business would be entitled to their statutory rights under the liquidation regime. Employees of the FI would remain protected by the "no creditor worse off than in liquidation" safeguard.

Interface with corporate insolvency provisions

29. As a failing FI might ultimately go into liquidation should attempts to resolve the FI fail, Mr SIN Chung-kai enquired about the interface between the resolution regime and the corporate insolvency provisions. In particular he was concerned about treatment of the creditor hierarchy and whether the hierarchy could be restored in the event that it was altered in the course of resolution.

30. ED/HKMA explained that the proposed regime was meant to be an alternative to publically funded bail-out or liquidation. If it was assessed that a failing FI under the scope of the resolution regime did not pose a systemic threat to financial stability, resolution would not be triggered and the normal winding-up provisions could apply. On the other hand, if a resolution authority decided to resolve a failing FI, the winding-up of the FI would be pre-empted. It was envisaged that, only once the systemically important parts of the FI's business (i.e. those parts providing critical financial services which need to be continued) had been transferred to a commercial purchaser or a bridge institution, might it be necessary to wind up the residual business of the FI in question under the winding-up procedure. In such cases, the "no creditor worse off than in liquidation safeguard" would apply.

Conclusion

31. The Chairman concluded that members did not object to the Administration's plan to introduce the relevant legislative proposals for the establishment of the proposed regime into the Legislative Council ("LegCo") by the end of 2015.

V Review of the adjustment mechanism for the Minimum and Maximum Levels of Relevant Income for Mandatory Provident Fund mandatory contributions

(LC Paper No. CB(1)567/14-15(05) — Administration's paper on "Review of the Adjustment Mechanism for the Minimum and Maximum Levels of Relevant Income for Mandatory Provident Fund Mandatory Contributions"

LC Paper No. CB(1)567/14-15(06) — Background brief on adjustment mechanism for the minimum and maximum levels of relevant

income for Mandatory Provident Fund mandatory contributions prepared by the Legislative Council Secretariat)

Briefing by the Administration

32. With the aid of a powerpoint presentation, the Head (Policy Development and Research), Mandatory Provident Fund Schemes Authority ("H(PDR)/MPFA") briefed members on the review of adjustment mechanism for the minimum level of relevant income ("Min RI Level") and maximum level of relevant income ("Max RI Level") for MPF mandatory contributions, and MPFA's proposal to introduce an automatic mechanism for adjustment of the two levels ("the proposed mechanism").

(*Post-meeting note*: The notes of the powerpoint presentation (LC Paper No. CB(1)602/14-15(02)) were issued to members vide Lotus Notes e-mail on 2 March 2015.)

Discussion

Automatic mechanism for adjustment of the Min RI and Max RI Levels and adjustment benchmarks

33. Mr SIN Chung-kai expressed support for setting up an automatic mechanism to adjust the Min RI and Max RI Levels based on benchmarks and calculation formula that were backed by legislation as this would minimize disputes among the relevant stakeholders that might otherwise arise from a discretionary mechanism. He pointed out that while under the Mandatory Provident Fund Schemes Ordinance (Cap. 485), MPFA must take into account the 90th Percentile Earnings when reviewing the Max RI Level, as MPFA might take into account other relevant factors in the review, the Max RI Level was not adjusted in some of the past review exercises. Noting that a $5,000 limit would be imposed on the magnitude of increase for the Max RI Level under the proposed mechanism, Mr SIN expressed concern that this would "suppress" the Max RI Level, and the gap between the proposed benchmark (i.e. the 90th Percentile Earnings) and the Max RI Level would continue.

34. The Chief Regulation and Policy Officer and Executive Director, MPFA ("CRO/MPFA") pointed out that the question was related to how a balance should be struck between full adjustment and imposition of a limit. It was noted that some members of the community considered the proposed limit

on the increase magnitude for the Max RI Level acceptable as it would avoid substantial adjustment at a time.

35. Mr Andrew LEUNG said that he was a non-executive director of MPFA. He expressed support for determining the Min RI Level at 55% of Median Earnings of all employed persons as it would be in line with the overall wage trend including changes to the Statutory Minimum Wage ("SMW") rate. As a result, workers whose incomes were increased resulting from an upward adjustment to the SMW rate would not be required to make MPF contributions if their incomes were less than the Min RI Level. He envisaged that the impact on employers arising from the proposed benchmark for adjusting the Min RI Level would be minimal because, in any event, employers still needed to contribute for the employees. Mr Jeffrey LAM said that he was aware that trade unions and the business sector at large did not object to the proposed benchmark for determining the Min RI Level.

36. On the determination of the Max RI Level, Mr Andrew LEUNG and Mr Jeffrey LAM conveyed the serious concern of the business sector about the proposal turning the existing discretionary adjustment mechanism to an automatic one with the benchmark of 90th Percentile Earnings, because MPFA would no longer have flexibility to take into account other factors which were not explicitly set out in the legislation. Given that the Max RI Level might be increased to $35,000 from the current amount of $30,000 with implementation of the proposed mechanism, Mr LEUNG pointed out that employees/self-employed persons earning between $30,000 and $35,000 might be against making more MPF contributions. He urged the Administration to duly consult the business sector, labour unions and employees in the relevant income group on the proposed mechanism. Mr LAM requested MPFA to clarify whether and how they would consult the public on the Min and Max RI Levels derived using the proposed mechanism. He also enquired how MPFA would address problems with high fees and low investment return of MPF schemes.

37. CRO/MPFA stressed that the current consultation aimed to seek the views of the public and LegCo Members on the proposed mechanism. If a consensus could be reached on the proposed automatic adjustment mechanism, including the parameters such as the benchmark factors, review frequency and the commencement date, the proposed mechanism would operate in a mechanical way and MPFA would administer the mechanism fully based on the relevant statistics and calculation formula without discretion. The proposed mechanism would ensure that adjustment of the Min RI and Max RI Levels would be made promptly in line with economic developments without delay which might be caused by lengthy debate after each review on whether the adjustments should be implemented fully. Moreover, trustees and employers

would be able to plan for the adjustments as the outcomes of each review exercise would be more predictable. If, in the longer term, it departed from what the public considered a reasonable approach having regard to the circumstances which had happened, the mechanism itself could be reviewed again. On the other hand, in the absence of a consensus, the proposed mechanism would not be taken forward. CRO/MPFA added that MPFA was aware of views of some members of the public against making more MPF contributions than they considered necessary, but as a matter of policy, there was a need to set the Max RI Level, the earnings of an employee or a self-employed person in excess of which would not be subject to mandatory contributions. CRO/MPFA also mentioned that, subject to further development, it was envisaged that changes to the Min RI and Max RI Levels after implementation of the proposed mechanism would be subject to negative vetting of LegCo.

38. H(PDR)/MPFA supplemented that there were comments received in favour of a fully-automatic adjustment mechanism in accordance with the proposed adjustment benchmarks for the Max RI Level as the resulting prompt adjustment would better follow the overall wage trend. While an upward adjustment of the Max RI Level would mean increased MPF contributions by some employees, they saw the merit of accumulating more retirement benefits in the longer term, in particular noting that there would be a corresponding increase in MPF contributions from their employers.

39. Mr James TIEN said that Members belonging to the Liberal Party opposed to the proposed mechanism. Referring to page 4 of the powerpoint presentation, Mr TIEN pointed out that during past review exercises, the Max RI Level was not adjusted strictly in accordance with the 90th Percentile Earnings after each review. For instance, the Max RI Level had been maintained at $20,000 from 2000 to 2011, only followed by two upward adjustments in 2012 and 2014 to $25,000 and $30,000 respectively. He expressed concern that under the current assessment (page 9 of the powerpoint presentation), if the proposed mechanism was implemented with a review exercise every two years, the Max RI Level would likely be adjusted upwards by the prescribed limit of $5,000 in each of the next two review exercises to reach $40,000 in order to meet the 90th Percentile Earnings. He considered the envisaged adjustments unwarranted in terms of magnitude and frequency, particularly when it was not expected that the performance of MPF investments would improve substantially in the near future and there could be better investment return if the employees were allowed to invest their earnings outside the MPF System. Indeed, he observed that MPF investment in general yielded lower returns than those of voluntary occupational retirement schemes ("ORSO schemes") in the market.

40. CRO/MPFA said that MPF schemes were managed by trustees and investment managers of the private sector similar to those of ORSO schemes, with comparable investment risks and return. He pointed out that investment return from MPF schemes would depend on factors, such as the investment option chosen by individual scheme members and the scheme/fund structure. As regards the implications of the proposed mechanism for the adjustment magnitude of the Max RI Level, CRO/MPFA clarified that it would depend on the data of the prevailing 90th Percentile Earnings at the time of review. The example given on page 9 of the powerpoint presentation was only based on the relevant data for the third quarter of 2014 provided by the Census and Statistics Department.

Frequency of reviews and adjustments

41. Mr SIN Chung-kai expressed support for setting the review/adjustment frequency for the Min RI and Max RI Levels once every two years as it would enable reviews/adjustments to be made in a more disciplined manner than under the existing mechanism. Mr WONG Kwok-hing queried why annual review was not recommended instead as it would track economic conditions and wage trend even more closely. He was also concerned that the proposed frequency would impact the ongoing efforts of the labour sector in fighting for annual review of the SMW rate (which was currently reviewed once every two years).

42. H(PDR)/MPFA said that the proposal of adjusting the Min RI and Max RI Levels once every two years was put forward after striking a balance between tracking socio-economic conditions and the administrative/operational work required of service providers and employers. She pointed out that more frequent reviews, for instance on an annual basis, would create more administrative work and hence increase the costs of the MPF System. She said that the review/adjustment frequency for the Min RI and Max RI Levels and that for the SMW rate were different matters and their adjustment mechanisms were prescribed in separate legislation.

Consultation with stakeholders

43. Mr WONG Kwok-hing enquired whether MPFA had consulted the Labour Advisory Board ("LAB") on the proposed mechanism. H(PDR)/MPFA said that MPFA had provided the consultation paper to LAB, and indicated to LAB that MPFA stood ready to brief LAB members on the proposal. No comments had been received from LAB members so far, nor did they request a briefing by MPFA.

44. Stressing the importance of LAB as a platform for both employees and employers to discuss labour matters, Mr WONG Kwok-hing strongly urged MPFA to consult LAB on the current proposal, and said that MPFA should undertake to follow up on his request. He emphasized that, without going through the consultation with LAB, the Administration/MPFA should not proceed to introduce the relevant legislative amendments. Mr SIN Chung-kai remarked that LAB's views on the proposal did not necessarily represent the views of LegCo Members. He supplemented that eventually it was LegCo that scrutinized and approved any proposed legislative amendments. CRO/MPFA took note of members' views and agreed to approach LAB again and impress upon it the importance for LAB to provide views on the consultation paper.

Conclusion

45. Rounding up the discussion, the Chairman said that MPFA expected that a concrete proposal for amending the statutory adjustment mechanism for the Min RI and Max RI Levels would be submitted to the Government in 2015.

VI Any other business

46. There being no other business, the meeting ended at 12:25 pm.

Council Business Division 1
Legislative Council Secretariat
12 May 2015